Not-for-profits and pro-sociality in public service provision

Susan Steed

A dissertation submitted to the University of Bristol in accordance with the requirements for award of the degree of Doctor of Philosophy in the Faculty of Social Sciences of Law.

School of Economics, Finance and Management

May 2019

Word Count: 59,256

Abstract

This thesis focuses on two, related, issues that are relevant to the delivery of public services. The first is whether it makes a difference if organisations that deliver public services are driven by profit and if there is anything distinctive about not-for-profit providers. The second concerns the role of intrinsic motivations, both in terms of people who work to provide public goods, and decisions that people make about donating to charity. This thesis comprises four substantive chapters that use different methods to shed light on these issues. The first chapter provides an overview of the literature in economics on not-for-profit organisations and their changing role in the delivery of public services. The second and third chapters both consider Legal Aid, which is a public service area, like many others, wherein quality is difficult to assess and monitor through contracts. The second chapter compares the performance of not-for-profit and for-profit areas across several areas. The next chapter considers a different data set and how behaviour has changed as the funding environment for both provider types has unified and become more competitive. This includes an analysis of how providers respond to contracts and performance standards and whether gaming is more frequent in either type of organisation. The final chapter is an experiment carried out with a local authority during the launch of a pro-social project. It tests whether asking people to make a commitment in advance makes them more likely to sign up.

Acknowledgements

I'd like to thank, first and foremost, Sarah Smith, my main supervisor. She has been a constant source of support and encouragement, especially at times when my progress had really slowed down. I'm immensely grateful for all of the advice and feedback received, especially on papers that were sent to her at the 11th hour. I don't think I've come across anyone before who has the intelligence and integrity to always speak with such honesty and clarity in the way that Sarah does. It's been an absolute pleasure to work with her.

I'd also like to thank Simon Burgess, who was my secondary supervisor. I didn't have as much contact with Simon, but he intervened with kindness and wise words at just the right times. He is also one of only a very select number of people who ever like my tweets, for which I am eternally grateful. I'd also like to thank Erlend Berg, who provided encouragement at a vital moment, and Paul Grout, who provided some useful comments regarding legal aid, as did Morag McDermont.

I'd like to thank David Reinstein and Adriaan Soetevent who were collaborators on the design of the experiment in this thesis. Furthermore, I would like to thank all of the people with whom I nearly collaborated! I had many interesting discussions with Daniel Jones, Michael Sanders, and Ashley Whillans and have sadly unfinished projects with all of them. I'm also grateful to colleagues at the University of Bristol and the New Economics Foundation.

Over the course of completing this PhD I had the privilege of serving as one of the Committee Members on the 'Low Commission', which was formed as a response to most of the areas of legal aid that I examine in this thesis being taken out of scope of public funding. I was able to meet and gain the insight of a large number of people who have devoted their lives to helping people to gain access to justice. I am particularly grateful to Vicky Ling, who must know more about legal aid than anyone else, and who answered my questions on some of the finer details of legal aid contracts.

I'd also like to thank the ESRC for the funding that made this research possible.

I'd like to thank my friends, particularly Annie for listening every time I complained about how much time I had spent staring into STATA, Daisy for keeping me on track, Arielle for believing in me and holding the fort on our comedy night, Carmen and Charley for being there in times of crisis, and Ella for being the best 'study buddy' for whom anyone could wish. I'd also like to thank Mike and Maria for letting me stay with them in Bristol and for the vegetable stew and stimulating chats.

Finally, I'd like to dedicate this PhD to my Mum. This is a PhD about why people are motivated to do things for charity, and at times I have felt like a charitable cause, and I am so grateful for her continued love and support and pro-social motivation.

I declare that the work in this dissertation was carried out in accordance with the requirements of the University's *Regulations and Code of Practice for Research Degree Programmes* and that it has not been submitted for any other academic award. Except where indicated by specific reference in the text, the work is the candidate's own work. Work done in collaboration with, or with the assistance of, others, is indicated as such. Any views expressed in the dissertation are those of the author.

SIGNED: .....  .....

DATE:.....4th May 2019.....

Table of Contents

List of Tables

List of Figures

1 Introduction

Charities have often been seen as a special feature of British public life, as institutions that cooperate with, but exist outside of the state (Beveridge 1948). Since the foundation of the welfare state, their role has changed considerably. Now, they are more likely to be delivering services as a sub-contractor to the state, rather than existing as wholly separate entities.

This thesis looks at two, related, issues in the delivery of public services and the changing role of charities within this. The first is whether there is anything different about public services delivered by charities or other not-for-profit providers, compared to those driven by profit. The second is the role of intrinsic motivations, in both individuals considering whether to donate to charity, as well as workers deciding how much effort they put in when working in the public service.

In the first chapter, I outline some of the economic evidence concerning whether charities bring any distinctive features to the delivery of public services. I also examine evidence on whether any such distinctive features can be maintained, as charities adopt a new role wherein they are expected to compete alongside private companies to win and deliver contracts.

In the second chapter, I use a large and unique dataset on the delivery of legal aid in the UK. Legal aid is like many service areas in the public sector, in which quality is important, albeit difficult to observe and assess. It has also recently been through a process of standardising contracts so that all providers — for profit or not — face the same competitive funding environment. In this chapter I examine several different types of advice and test for any distinct features between not-for-profit and for-profit providers ("NP" and "FP" respectively).

The third chapter uses a different dataset of legal aid, which focuses on housing advice. This is a longitudinal dataset that begins in a time period wherein non-profits and for-profits were funded differently and ends after two competitive funding rounds. This allowed me to

explore the transitional effects of using contracts and whether NP providers have any differential response, compared to for-profits, to the cost pressures put on them in the new contracts. It also explores the extent to which both organisations game performance standards.

The fourth chapter is an experiment that was conducted alongside the launch of a project at a local authority. It tests for the effect of asking people to make a commitment to take part in a pro-social activity in the future. It also considers in more detail some of the reasons that people may be motivated to do things for charity, or at least say they are going to do them, and the importance people hold upholding their own self-image.

2 The role of not-for-profits in the delivery of public services

Abstract

This chapter provides an overview of the economic literature on NP providers and their role in the delivery of public services. It considers the different economic theories about why their behaviour may be distinctive and assesses some of the empirical evidence as to whether any such differences have been observed in practice. It also considers some of the issues in commissioning NP providers who are motivated by mission and the effects that contracts may have on the behaviour of these firms and the motivations of their workforce.

2.1 Introduction

In the UK, and many other countries around the world, the way public services are delivered has gone through a series of transformations. A notable shift occurred during the Thatcher and Reagan years, where many public services were privatised. In the UK there was a change in policy direction under New Labour with a new focus on incorporating methods and ideas from the private sector, such as greater use of incentives and competition, with ownership and some control maintained by government. This led to new 'markets' and 'quasi-markets' being introduced with private companies beginning to deliver services that historically had only been provided by the state.

There are still many questions about how effectively markets, even those controlled or funded by government, can deliver high quality public services. The goods and services provided by the state differ from those in the private sector, and what works in one may not work in the other (Besley and Ghatak 2005). It's also become clear, both from new research and from events such as the financial crisis of 2008, that some of the methods used to motivate workers

in the private sector, which have been increasingly applied to the public sector, can have unintended consequences.

It is against this backdrop that there has been a renewed interest in the role of not-for-profit or non-profit (NP) organisations. In the UK the coalition government of 2010 to 2015 made getting these organisations more involved in public service delivery a major aim in their White Paper on public service reform (HM Government 2011). There are a range of benefits that non-profits are expected to bring to the public services they deliver, such as higher quality, a distinct mission, connection to a local community, a more motivated workforce, and support from donors. Their lack of a profit motive, which had often been seen as a weakness in economics, can be their key strength if it means they do not respond to pressures to cut the quality of the service in the same way that for-profit firms might.

The involvement of NPs in the delivery of public services is hardly new. In the UK many hospitals and schools that are now provided by the state had their origins in the voluntary sector. Around the same time that Lord Beveridge produced his famous report that outlined the foundations of the welfare state he also wrote a, less well known, report about the voluntary sector. He described the existence of charities as a special feature of British public life and viewed them as important entities that cooperated with, but were independent from, the state (Beveridge 1948). NPs have often had an important role filling in service gaps around state provision, or in some cases provide representation to people who may have actions against the state.

What has changed and evolved is the relationship of the voluntary sector to the state. Non-profit organisations are now more likely to get funding from the state in the form of contracts, rather than grants, which means they are delivering public services on behalf of the state. It is unclear whether NPs are suited to this new role as service providers. The strength of some non-profits is that they are founded by ideologically motivated people who are responding to a need they have identified, often in their local area, which may not work at scale. There are also some NPs that select their users, for example, schools who choose students on the income or religion of the parents. It would not necessarily be desirable for these practices to be replicated, adopted, or even encouraged, by the state which aims for universality of services in a way that many charities do not.

Even where it is desirable for non-profits to deliver services there are concerns they will not be able to maintain their distinctive features if they have to compete alongside the private sector to win contracts. In spite of the stated intention for the sector to have a bigger role in delivering public services, the amount of funding NPs have been provided by the state has either declined or stagnanted between the years 2010 and 2015 (NCVO 2017). The organisations that have received more funding in the form of contracts are very large non-profit's (with incomes over £10 million); conversely, smaller organisations have not fared well in the commissioning process.

This paper reviews the current research and empirical evidence in economics that is most relevant to the role NPs have in public service delivery. There are a range of different legal entities that a NP organisation might take, for example, from an unincorporated association, to a charity. The important distinction is that they that are subject to what Hansmann (1996) described as the non-distribution constraint, which means they are '*barred from distributing any profits it earns to people who exercise control over the firm, such as its members, officers, directors or trustees*.' I will follow the established convention of grouping all such organisations, including charities, under the title of either 'not-for-profit' or 'non-profit' ("NP"). These titles have been described as being a bit misleading (Ortmann and Schlesinger 1997) since a profit is made, the distinction being the profits are not distributed to the owners. I'll use the abbreviation for-profit ("FP") for any private company.

In this chapter, after setting out some definitions of NPs, I start by looking at the arguments put forward by economists about why NPs have (or do not have) a distinctive role in public service delivery alongside some of the empirical evidence. In the second section I look at the practicalities of commissioning NPs, and particularly the challenges in assessing the performance of NPs. Measuring performance in the private sector is not straightforward either and many of the issues of monitoring how well firms are performing is further complicated when the people whose performance is being measured are intrinsically motivated or the organisations have some kind of social purpose. I also consider whether the performance measure chosen, or the method of commissioning, can affect the character of non-profit providers themselves.

2.2 What are not-for-profit organisations?

The term ‘non-profit organisation’ or ‘non-profit’ is a broad term for a range of independent organisations whose main purpose is something other than to make private profit for their directors, members or shareholders (Resource Centre 2018). There are a wide range of legal forms that non-profit organisations can take. Grout and Yong (2003) describe the five traditional legal forms that they have taken: trusts, unincorporated associations, friendly societies, companies limited by guarantee, and industrial and provident societies. Moreover, there are two newer legal forms in the UK — Community Interest Companies (CICs) and Charitable Incorporated Organisations — which were set up after the government’s strategy unit recognised that other legal forms were very cumbersome for some organisations (Grout and Yong 2003).

Not all of the legal forms described above are charities. For charities there are additional restrictions. The benefit to forming a charity is that they receive some tax advantages. The tax status of charities has a long history in UK law. There are records dating back to 1601, when the English Statute of Charitable Uses was passed, that show that organisations and donors that engaged in certain types of charitable activity would be tax-exempt (Lakdawalla and Philipson, 2006). These types of activity are restricted to areas such as health and education, which are areas with externalities, uncertainty, information asymmetries, adverse selection, and issues with consumer trust (Frumkin and Keating 2001) and which lead to some of the characteristics of NPs that are described in the next section. The assessment as to whether they meet the criteria regarding whether they are established for public benefit is on a case-by-case basis (Grout and Yong 2003). Furthermore, there are certain restrictions on their governance; for example, they must have a board of trustees.

Some authors have introduced a further distinction between NPs that rely on funding from either fee-based or donative activities. Fee-based activities are those which have some form of notional price, even if the ‘consumer’ of these activities does not pay for the good or service, e.g. a state-funded nursing home. Donative activities are those which are not tangibly consumed by any group, e.g. campaigning. Other authors (Grout 2009; Hansmann 1980) distinguish between member-serving organisations, which are created to provide for their immediate members, and public-benefit organisations, which exist primarily to serve the community at large.

It has recently become popular for some businesses to define themselves as a 'social enterprise'. This is broadly defined as 'an organisation that trades in the market place in order to fulfil social goals' (Teasdale 2009). Social enterprises have some similarities with NPs that make their money from fee based activities but they are distinct from NPs in several ways. The first distinction is that not all of their surpluses have to be reinvested back into their services or community. To meet the criteria so as to gain accreditation with the Social Enterprise Mark, at least 50% of an organisation's profits must be reinvested (Social Enterprise Mark CIC 2016). The remainder of the profits can be redistributed to members, staff or shareholders in the same way as that of FP firms. The second difference is that social enterprises must be trading organisations, and not rely primarily on grants or donations.

The focus of this review is on NPs that, unlike social enterprises, are subject to a binding non-distribution constraint and donate all of their revenues back to their mission. This means that I will not cover 'social enterprises' directly, although as charities are gaining increasing income from contracts, rather than grants, more of them will meet one of the criteria of social enterprises which is that a majority of income derives from trading.

2.3 Economic theories of non-profit organisations

In this section I will present an overview of economic theories on the role of NP organisations. It was often assumed that, as NP organisations typically consist of employees that are not motivated by increasing profit, they would be less efficient than organisations where profit is a significant driving force. Most economic theories now recognise that individuals have further concerns alongside profit, and that some people have altruistic preferences and want to do things for the public good (or at least give the appearance in front of others that they care about the public good). There are also some economic theories which argue that the lack of a profit motive can be helpful, without assuming that workers have intrinsic motivations, if it can stop firms cutting the quality of the service in a way that has high social costs. NPs have also been seen to have further benefits, such as offering a distinctive or more innovative way of delivering a particular service.

I divide these economic theories into three groups, depending on their primary focus. The first group focusses on the difficulty of measuring and contracting over quality and the implication this can have about the most appropriate type of organisation to deliver public services. The second category of economic theories are those that focus on the idea that NPs have a distinct mission that sets them apart from public bureaucracies or FP firms. The third category is for theories that focus on the nature of workers in NP organisations and whether altruistic and caring employees are more prevalent within them. Although the focus of this review is on NP organisations, some of the theories apply equally to public sector bureaucracies.

2.3.1 Incomplete Contracts

One of the most influential theories about NP provision of public services focuses on the non-distribution constraint (NDC). Hansmann (1980) has argued that this is the 'essential factor in the role of NP enterprise' and, as set out in the introduction, it means firms can't distribute any profit to people who have some ownership over the firm. Economists have often thought that the lack of a well-defined residual claimant would cause NPs to be less efficient (Sloan 2000). This theory turns this idea on its head because, in certain conditions, it is this lack of a residual claimant that gives NPs their advantage.

These conditions arise when a consumer of a good is not able to easily define, observe and contract over the quality of the good that they are buying or using. It will also be difficult to verify to a third party the quality of a good that has been provided. This leads to strong incentives for profit-seeking producers to lower the quality and raise the price as much as they can. This means that consumers may be better off dealing with NP firms. Whilst NPs and FPs both have the capacity to reduce quality and charge higher prices, a NP has weaker incentives to do so because of the NDC. In this way NPs are like a consumer protection device. In the rest of this paper I'll describe this as the 'incomplete contracts' theory although it has also been referred to as the 'trust hypothesis' (Ortmann and Schlesinger 1997) or the 'expropriation theory' (Grout and Yong 2003) as it is more difficult for NPs, compared to FPs, to expropriate surpluses away from the intended mission.

Hansmann (1980) sets out a range of 'peculiar market conditions' that give rise to contract failure and where NPs are likely to have a more important role. Hansmann (1980) draws firstly

on services where there is a separation between the purchaser and the recipient of the service. Easley and O'Hara (1983) give the example of donating money for some disaster in another country such as a famine. A donor to the cause is unlikely to be able to visit the country of the famine to witness the food being delivered. The NP's NDC can help assure the donor that the donation will benefit the people in need and not end up in the project manager's bank account.

This issue applies to many services that are commissioned (paid for) by the public sector but delivered by third party providers. In the next two chapters I look in detail at legal aid services; this is an example of a service commissioned by the government and delivered by separate providers. The government is unable to observe the quality of advice given to end users. Legal aid also falls into the category of what Hansmann (1980) described as a 'complex personal service', as it is very hard for a consumer to determine whether the service has been performed adequately.

A theoretical model based on some of the idea's set out by Hansmann (1980) was developed by Easley and O'Hara (1983). In their first model, where benefits are easily observable, FPs operate relatively efficiently. If the benefits from a service are not easily observable, as in the scenarios set out by Hansmann (1980), the non-distribution constraint is valuable. Their model demonstrates two conditions where NPs are superior to FPs. The first is where the benefits from a service are unobservable or costly to monitor. The second is where low or minimum effort results in low benefits. They conclude that NPs have an important economic role and, given the increasing importance of service industries, will continue to do so. In these examples, they argue the constraints on the NP firm result in "better" outcomes than with FP firms.

There are some clear parallels with the debate around private or public provision of services. Several theories have made the case for services to be delivered 'in house' by public bureaucracies, which could also be applied to provision by NPs (although some issues arise about how to commission them which are covered in section 2.4). Hart *et al.* (1997) applied the analysis on incomplete contracts introduced by Grossman and Hart (1986) to the delivery of public services. They argued that the larger the adverse consequences of cutting (non-contractible) quality the stronger the case is for services to be delivered by government bureaucracies. Hart *et al.* (1997) apply this theory to prisons where they argue that contracts, while detailed, are 'still seriously incomplete' and a theoretical case against privatisation

stands. In other service areas, where contracts are more straightforward, privatisation is more viable.

A similar trade-off between quality and price was described by Grout (2009). If a profit-maximising company is responsible for the delivery of a service, they may choose to reduce cost regardless of the consequences on (non-contractible) quality. In contrast the public sector (and NP sector) will care about quality as well as cost. This doesn't necessarily mean that the public sector is better, as they may be harder to motivate to reduce costs, even where is little effect on quality (Grout 2009). Whether the non-profit sector is better hinges on whether the social cost of reductions in non-contractible quality are large relative to potential cost savings.

One of the distinguishing features of the 'incomplete contracts' theory is that it provides an argument for NP provision that is not based on the extent to which these organisations have a 'mission' or social benefit. Shliefer (1998) made the point that the key distinction that determines whether a service should be delivered within government or outside of it is not whether the service has a 'social' benefit but the extent to which such social purposes can be put in to a contract. For example, the argument outlined for postal services to be provided by the government is that a FP firm has an incentive to stop making deliveries to sparsely populated areas, as these are most costly to deliver to. Shliefer (1998) argues that this is not a case for government provision, as it is quite simple for the government to contract out the postal service, as long as the contract was clear surrounding where mail was to be delivered and that rural areas were not to be cut out of the delivery zone.

The 'incomplete contracts' theory does not rely on individuals that are altruistic, or socially motivated, although it is compatible with theories that do rely on this principle. NP providers can exist and provide increased quality, even when their owners are not altruistic. This is demonstrated in a paper by Glaeser and Shleifer (2001), who present a formal model of the choice an entrepreneur makes about whether to obtain NP status or not when they set up a new firm. The model states the key distinction for NPs is that the NDC means they cannot take any cash profits as income. They can, however, receive 'perquisites' or what can be thought of as 'perks' such as shorter working hours, improved working environment, etc. These are less valuable than income. NPs and FPs both care about the quality of the service, not for altruistic reasons, but because consumer's value quality and will be willing to pay an increased amount for a higher quality good or service. Consumers correctly anticipate that there are weaker

incentives for NPs to provide decreased quality and are therefore willing to pay an increased amount to a NP firm. This makes NP status attractive, even to entrepreneurs who are not altruistic.

Based on this reasoning, Glaeser and Shleifer (2001) identify a trade-off faced by an entrepreneur when deciding on the organisational form. There are benefits from being a NP as a commitment device to consumers, but there is a utility loss because the only way that profit can be redistributed is through employment 'perks'.

Vlassopoulos (2009) revisited the Glaeser and Shleifer (2001) model and considered what happens when there are long term and repeated interactions between users and firms, in contrast to the one-shot game. This is arguably a more realistic application to the commissioning of public services where providers are hoping to be able to win not just a current contract, but future contracts, making establishing a good reputation important. Vlassopoulos (2009) found that FP is the optimal choice for an entrepreneur when reputations can be established, which gives FP firms an incentive to supply high quality goods and services.

2.3.2 Mission

The next set of theories I will describe as 'mission' focused theories. These theories capture the broad idea that NPs are different because they are set up to achieve a unique mission. The mission could, for example, be a desire to help a particularly disadvantaged group of people or deliver services using a particular method. Besley and Ghatak (2003) have conceded that, while the notion of mission is rather vague, it is the key distinction that guides the behaviour of organisations that are not directly responsive to market forces. Not only do these theories explain differences between NP and FP firms, but, unlike the 'contract failure' theories, these also explain the differences between NP provision and that of government bureaucracies. As acknowledged by Kapur and Weisbrod (2000), both these organisational forms are subject to the NDC, and if this was the only factor governing their behaviour we might expect them to deliver services in a similar way.

The idea of mission driven NPs fits with them being more flexible and innovative than public sector bureaucracies and is one of the key reasons policy makers often advocate their use. Weisbrod (1988; 2004) has written several papers that consider how the idea of a mission may influence the behaviour of NP firms. In one paper (Weisbrod 2004) a 'two good model' is presented, where NP firms produce both a 'mission' good and a 'revenue' good. The mission is the core objective of the organisation. If NPs faced no limits on their funding sources they would produce just this good. As it stands they often have to produce another good which he describes as a 'revenue' good. This is not core to the mission of the NP and is only produced to finance the production of the 'mission good'. This means NPs may be higher quality, but only on those activities linked to their mission. They may be no better in terms of quality, or even lower quality, than FPs if they are producing a revenue good to fund their mission.

Mission goods can take various forms. A firm could have a 'mission' to supply higher quality services in which case this theory leads to similar predictions about the distinctions between NP and FP firms as the 'incomplete contracts' theory. In general, the 'mission' captures some distinct aspect of quality or supplying a distinctly different service compared to that which is provided by government or FP firms (Kapur and Weisbrod 2000). This could mean delivering a service to a different group of people who are not well served in other markets. Chetkovich and Frumkin (2003) gave the example of the Red Cross supplying blood to rural hospitals, even though this is a loss-making activity. Politically the Red Cross cannot abandon this activity, although they would maximise profits if they did.

There is no guarantee that the politicians or commissioners of a service will support the mission of the NP organisation. In the case of NPs serving a particularly deprived group of the population, although a commissioner may not have a problem with this, if the commissioner had cared sufficiently about this group being served they could have added something in the contract to ensure that providers were adequately targeting such groups, as pointed out by Shliefer (1998). It is also important to consider that NP providers won't always be selecting the people who can use their service in a way that best serves the public interest. In some cases, they might be, such as those that select more disadvantaged applicants, or a teaching hospital that concentrates on difficult cases (Rose-Ackerman 1996). In other cases, they may be selecting people who share characteristics with the founders or staff of the NP. This means that some NPs may discriminate based factors such as socio-economic status or sexual orientation. An example of this can be highlighted through Catholic adoption agencies who were unwilling

to accept gay couples as potential parents. In such cases, there are equity concerns if provision was left to NP organisations that were screening users in such a way.

Besley and Ghatak (2005) argued that the main benefit of NPs is their potential to 'generate a variety of different missions', which in turn can improve productivity if managers and workers with similar mission preferences can be matched. They see this attribute of NPs as a key part of the case for the decentralisation of public services and they argue that 'diversity is good not only for the standard reason, namely, consumers get more choice, but also in enhancing productive efficiency.' Besley and Ghatak (2005) see this benefit of NPs as about selection, not anything distinct about the organisational form. Other authors have made the case that it is possible, not just for organisations to select workers that share their mission, but for them to change the preferences of their workers (Akerlof and Kranton 2005).

The idea that FP firms can also exhibit identity or mission preferences is not inconceivable. The Body Shop is often cited as an example (Grout and Yong 2003; Besley & Ghatak 2005) although it is possible that this mission has been compromised following their acquisition by L'Oréal. In a similar way that Weisbrod (2004) suggests that NPs may produce a revenue good to support production of their mission good, FPs may often be able to produce a mission good which will increase their profits on their revenue good. Brands can try and improve their reputation by aligning with a charity. Weisbrod (2004) highlights an example of profit increasing for the firm American Express after it announced it would contribute a proportion of gross amounts charged to its credit card to a charitable foundation. While FP firms may exhibit some charitable behaviour and staff in these firms may have distributional preferences they are forced to ignore them except where they coincide with profit goals (Steinberg and Weisbrod 2005).

Some authors have also argued it is possible for the state to create public agencies with a mission driven focus. Mazzucato (2017) cites public agencies who have clear mission statements and can attract workers by the prestige attached to working for them. An example of this is the Defense Advance Research Projects Agency (DARPA) in the US which has a mission of 'creating breakthrough technologies for security' (DARPA cited in Mazzucato, 2017). In the same way that there can be FP firms that have a mission, there can also be NP organisations that do not actually produce a mission good that has any benefit to anyone except

the managers of the NP firm. These have been called ‘for-profit firms in disguise’ as they are exhibiting behaviour that is indistinguishable from a for-profit firm (Weisbrod 1988).

2.3.3 Pro Social Workers

The theories that have been discussed so far focus mostly on the nature of the services or goods provided. A further set of theories are centred on the individuals who are employed within NPs and the extent in which they may differ from those employed within the private sector, or behave differently if employed by a NP. These theories tend to focus on the extent to which employees have preferences that mean they care about the service they are providing. These altruistic or caring preferences are often referred to as ‘pro social motivation’ or ‘public service motivation’ (PSM). They take different forms depending on whether the employee cares about the level of the public good that is supplied overall, or whether they directly contributed to it being produced, or if they care more about being seen to be contributing to whether it was produced. These various ways of modelling pro-social behaviour will be explored throughout the next section, along with the implications they have for the choice of organisational form.

2.3.3.1 Modelling Pro-Social Behaviour

It has often been assumed in economics that individuals primarily care about money. Most standard models assume that effort is something to avoid, and that employees are disinterested with the tasks they complete within work, aside from how they impact on wages. There is now a growing literature and body of empirical work that highlights how individuals care about more than financial gain, and that money can be a poor motivator for particular tasks. It is also now common for economists to model utility where people have altruistic preferences (See Francois and Vlassopoulos 2008 for a review of different ways of modelling pro-social behaviour).

The idea that people who work in charities are selfless and are motivated only by the desire to help is held in high esteem by members of the public (Seu *et al.* 2015). In reality the reasons that motivate individuals to donate their time or money are considerably more complex. The complexities of gift giving have been studied in some detail by sociologists, some of whom come to a viewpoint that many people give for reasons that are not that far removed from the

neoclassical economics simplification that people are self-interested. Mauss (1967) highlights that while gifts often appear to be "voluntary, disinterested and spontaneous" they are in fact "obligatory and self-interested".

In economics the motivations for people doing something for charity are typified in one of two ways, which was set out clearly by Andreoni (1990). He defined giving as being comprised of two components – 'pure' altruism and 'impure' altruism. The first, 'pure' or 'output-orientated', characterises individuals who want to donate or volunteer for a charity as they genuinely want a certain level of a good to be provided for others. In contrast 'impure' altruism captures the more 'egotistical' reasons that individuals give. Individuals get various benefits from giving or doing things for charity that are unrelated to the provision of the service of the charity. Andreoni (1990) calls these benefits the 'warm glow'. This captures the 'warm and fuzzy' feelings that derive from doing something for charity, irrespective of how useful the activities are. This particular type of altruism can be termed 'action-orientated' altruism, which captures the idea that individuals motivated by this type of altruism gain benefits from their role in contributing towards the outputs, not how much of the output is provided.

Bénabou and Tirole (2006) explored additional explanations of why individuals may be altruistic. They include another factor in an individual's utility function which they define as 'reputational' reasons for giving. This captures the idea that people like to be thought of as a 'good person' and act in a way that make themselves seem good, both in front of others, as well as preserving their self-esteem (self-signalling).

The idea of reputation and self-signalling is explored in more detail in chapter 5 as a potential explanation for why large numbers of people, when asked, said they would take part in a pro-social project. When the project launched, very few people followed through on their stated intention. One reason could be that, when asked, people like to think of themselves as the sort of person who will do things for charity and will contribute to community projects. It's possible that people may have been able to maintain this belief, even when they don't actually contribute in practice to the project.

The theories that have been examined in this section have considered that individuals may have different preferences; some people are altruistic, some are not. A contrasting idea has been set out by Akerlof and Kranton (2000) with their work on identity economics. This theory presents

the idea that individuals do not necessarily have fixed preferences. A person's identity is made up not just of their own characteristics, but those that they aspire to have and can change based on the actions of those around them or the environments in which they interact. This means that those individuals who are not particularly altruistic can be influenced by an organisation once they begin working there.

2.3.3.2 Implications for Organisational Form

Francoise and Vlassopoulos (2008) provide an analysis of how this distinction in how altruism is modelled has implications for the providers of public services. They set out a utility function which embeds both ideas of altruism which is $U_i = y_i - \emptyset(e_i) + h_i(e_i) + \gamma_i(g)$ where y is a private good, e is effort and g is the public good. In standard principal-agent models the more effort a worker puts in, the lower their utility. In this model, the inclusion of the third term, 'impure' altruism, means that workers can experience higher utility from putting in more effort. The difference in the 'impure' or 'pure' altruism approach depends on the inclusion of the third (impure) and fourth term (pure). These aren't mutually exclusive, and people can be motivated by a combination of these two factors. When people are primarily motivated by pure altruism it means there is the possibility for individuals to free ride on the effort of others. Workers may want the public good to be provided, but they would prefer if someone else put in the effort to do this.

Theories which put the most emphasis on the fourth term have tended to predict that public service motivation will only be present in NP firms or public bureaucracies. Francois (2000) sets out an argument that only firms without a residual claimant can utilize the public service motivation of their employees. The argument is based on there being workers who are motivated by 'pure' altruism They will donate labour or put in extra effort as long this increases the amount of public services provided. In a FP firm, if workers put in extra labour effort, the residual claimant has an incentive to make adjustments and lower other inputs, so the workers extra input doesn't increase outcomes.

In a later paper Francois (2003) considers the role of NP providers which, due to the lack of a residual claimant, can provide a stronger commitment to workers that their effort matters. Like the public bureaucracy in his 2000 paper, this leads to a prediction that they can receive labour

donations in a way that FP firms cannot. The model in the 2003 paper differs from the 2000 paper in that it considers the supervision costs rather than the adjustment decision by firms. The paper outlines a way that NPs can overcome the free riding problem by paying workers an efficiency wage, to induce them to participate. In an equilibrium FPs are not able to rely on the efficiency wage so they pay workers using a supervision technology. This means on balance, since the NPs are paying a premium to ensure incentive compatibility, wages are higher in NPs, compared to FPs

In both of Francois' (2000; 2003) models there is not anything different about the individuals that work in NP firms, compared to FPs. The differences are all centred on the organisational form, i.e. residual claimant, which means that employees cannot influence the level of output in a FP firm, so they do not donate labour even if they have altruistic preferences. This is based on the assumption that they are motivated solely by pure altruism. In a later paper Francois and Vlassopoulos (2008) set out more detail on the type of services where people are motivated by altruism which tend to be where there is a "care" dimension. This helps explain the key advantage that NPs have over FP firms in the delivery of public services and the 'incomplete contracts' theory cannot on its own explain the existence of NP firms. After all, there are many services where there is contract failure, e.g. consultancy firms, but no NP providers. From this perspective it is incomplete contracts, alongside the altruistic preferences of workers, that explains the advantage that NP firms can have.

The theories that define altruism using the 'impure' form tend to place less emphasis on the organisational form. Besley and Ghatak (2005) created a model where employees do care about outcomes, but their primary motivation is to work for an organisation with which they share a 'mission'. It is argued that one of the biggest benefits of the voluntary sector, although also possible in the private sector, is the potential to get a positive match between employees and principals that share the same mission. In their example they argue that teachers will be more motivated if they can work in a school that shares their religious mission. The key point here is that 'impure' altruism alone is not enough to motivate effort, but they must be matched with an organisation that shares a mission they view as worthy enough to expend their effort on. In this theory the employees are heterogenous and NPs can offer a way to select motivated employees. This is in direct contrast to the theory set out by Francois (2003), where the role that NPs have in the labour market is not one of selecting motivated workers, but instead

inducing such motivated individuals to put in higher effort by credibly offering a wage that meets their incentive compatibility constraint.

In the model set out by Akerlof and Kranton (2000) the role of selection that Besley and Ghatak (2005) emphasise is less important because an organisation can change the identities of the employees that work for them to fit their mission, even if these individuals did not share this mission at the time of recruitment. They give the example of what happens when new recruits join the military. They are given a new haircut, a new uniform, and put through a range of tasks and rituals. This breaks down their previous identity and builds them up as a soldier with a strong allegiance to their team. A slightly less extreme process is likely to occur with NP organisations who do not generally make their staff change their hair, but often have induction processes that encourage them to embrace the mission of their organisation. If it was possible for people's preferences to be shifted and make them care about their mission, they may also change their allegiance or become demotivated easily if the environment of the organisation changes. This could happen, for example, if rather than being focused on a social purpose the organisation becomes more focused on performance standards.

The inclusion of reputational effects (Bénabou and Tirole 2006) adds a number of interesting features to the analysis of the organisational form. People may like to be seen to be doing the right thing and working for a charity may seem to be socially worthy. An individual may even receive higher reputational benefits from working for a well thought of charity, despite it not providing as much good as a private company. This has some similarities to 'impure' altruism in that reputational utility benefits are not linked to the amount of the public good that is provided, but nor is it linked to the effort that the person puts in. Instead, it is about creating the impression that they are good or signalling to others that they care about pro-social causes.

2.3.3.3 Implications for wages

The models that have been discussed offer varying predictions about whether wages will be higher or lower in NP firms. Models that use 'pure altruism' tend to predict that wages will be higher in the NP sector. Francois (2000; 2003) sets out how these organisations can overcome the free rider problem by paying their workers an efficiency wage, which encourages

employees to put in more effort to keep their higher salaried employment. He argued that theories that predict NPs will have lower salaries have not taken into account the free rider problem. If individuals are motivated by 'pure' altruism they will not accept a lower salaried job in the public sector, as they would prefer for someone else to take this job and produce the public good, while they take a higher salary in the private sector.

Theories that focus more on 'impure' altruism, where employees get some benefit by working in the public sector themselves, often make the case that salaries can be lower in the public sector as the intrinsic motivation can lower the participation constraint of such employees. Delfgaauw and Dur (2007) argue that if wages are higher in the public sector this may attract less suitable candidates and discuss some of the way the sector can screen candidates or motivated agents can signal their commitment to the cause. In a later paper Delfgaauw and Dur (2008) attempted to link the two seemingly contradictory stereotypes surrounding civil servants. Those employed as civil servants have a reputation as being lazy (Wilson, 1989), despite this people often report positive experiences when they encounter civil servants. In this model the lower wages that will be accepted by intrinsically motivated employees can also mean "lazy" employees will seek employment within the public sector. The unobservability of PSM means these employees, who cannot command a high wage employment in the labour market, may be attracted to public sector jobs.

This was elaborated within a later paper, where it was argued that organisations within the public sector that were overstaffed were actually a more efficient way of combining highly motivated, but less productive management to a larger personnel base (Delfgaauw and Dur, 2010). While this implies that the public sector attracts agents with relatively low ability, it is the least costly way of producing a given amount of public sector output. A similar rationale could apply to NP organisations who can attract individuals who are intrinsically motivated.

The Bénabou and Tirole (2006) model also provides a rational for lower wages in the NP sector. If people want to be seen to be doing the right thing then high pay, or even a lot of social praise, may lead others to think they are doing it for the rewards, not because they are good people. There are so many factors in the Bénabou and Tirole (2006) model that they argue there is 'multidimensional uncertainty' about what the impact of introducing an increased material reward might be. An increased reward will lead to an increase payoff from the income, but it reduces the signalling value of doing a good deed.

While there is disagreement about whether wages will be higher or lower in NP organisations, most theories that involve workers with altruistic preferences, of any of the types identified above, predict that performance related bonuses or pay will be less frequent in the public sector. There are several reasons for this. Bénabou and Tirole (2003) argue that these payment structures can crowd out people with intrinsic motivations. People may lose motivation if they can't maintain autonomy over tasks (Deci *et al*. 1999). Theory from behavioural economics suggests that some payments for a task can send out a signal about whether a task is valuable or worth doing (Bénabou and Tirole 2003; Heyman and Ariely 2004). Ariely *et al.* (2005) suggested that paying for some tasks can change people's experience of the task and whether they enjoy doing it or not, which may mean the role that unpaid volunteers have in NPs can be important. These ideas also have implications for the increasing use of contracts which I come back to in section 2.4.2.

2.3.4 Empirical Evidence

2.3.4.1 Quality

The 'incomplete contracts' theory predicts that NPs will be higher quality than FPs when delivering a public service. However, this will be on non-contractible quality which, by definition of being hard to contract over, means it is also hard to measure and thus observe. Norton and Stagier (1994) point out the difficulties this raises for anyone analysing data from the firms to distinguish between the non-contractible quality of the providers and thus empirical evidence that finds no difference on quality between NPs and FPs isn't alone enough to refute the 'contract failure' theory. They suggest this is why some comparative studies across FP and NP firms such as hospitals had trouble identifying any differences in observable quality. Other authors, such as Sloan (2000), have been frustrated by claims by the NP sector that their distinctiveness cannot be measured, and he argues the major challenge facing NP providers is;

"to measure these heretofore unmeasured outputs and evaluation the effects of ownership on their provision. Just believing that the outputs are out there somewhere is not terribly compelling."

Overall the evidence on differences between NPs and FPs on quality isn't conclusive. Sloan (2000) reviews several different studies of quality in hospitals that have attempted to find differences between FPs and NPs. He finds several studies that have found FP hospitals tend to have lower staffing levels, especially lower nurse staffing but that this has not clearly led to other measures of quality including outcomes. In many of the studies he reviews there are few differences in quality between NP and FP firms, for example Keeler (1992 cited in Sloan 2000) found no overall difference between NPs and FPs although FPs did perform better on some implicit processes.

In Chapter 2 and 3 I examine evidence from legal aid services in the UK and find that NPs take a lot more time per case and cost more, compared to FPs, when they are funded differently. As soon as the contracts are unified between NPs and FPs there is convergence on the time taken between the two provider types. This suggests the extra time taken by NPs prior to the reform relates to the funding structure, not some unique features about the firms. I do find evidence that NPs are higher quality on those types of legal aid advice that they have a specialism, but on other types of advice FPs are higher quality.

Vlassopoulos (2009) cites evidence from the child care sector in the US and Canada that as a group NP centres obtain higher scores on some measures of quality, but there is variation within each category. It is the case that FP firms are predominately in the lower part of the quality distribution, but there are some NP firms that are low quality and some FP firms that offer high quality. The existence of such high-quality providers of child care is consistent with the theory that repeated interactions can provide an incentive for profit maximising entrepreneurs to offer high quality services, without adopting the NP organisational form.

The 'incomplete contracts' theory also means that if something changes about the service that makes it easier to assess the quality then the importance of NPs should decline. Jones *et al.* (2017) present a model, based on Glaeser and Shleifer (2001) to look at the effect of an increase in information on the likelihood that a provider is NP. They exploit a large exogenous shock in the amount of information that Nursing Homes in the US needed to disclose that occurred

as part of the Nursing Home Quality Initiative. They found that prior to the reform there was evidence that NPs were higher quality on various measures such as having more care staff per patient and fewer deficiency points. After the reform they found that a large number of NP firms immediately exited the market place. NPs were around five per cent more likely to exit after information is revealed compared to FPs that are not more likely to exit. They also found some firms changed to FP status. The firms that exited or changed status were those at the lower quality end of the distribution. They conclude that, while historically NP providers have had an important role, as information is becoming more accessible to consumers the adoption of NP status as a signal of quality is not sustainable.

The 'mission' argument also predicts that NPs will be higher quality, but not necessarily on the same dimension as the FP providers. Weisbrod (2004) argues that in 'revenue' markets both NPs and FPs are maximising profit, but NPs will use the revenue to fund their mission. Weisbrod (2004) therefore argues that in revenue markets NPs,

"*would act indistinguishably from for-profit firms… assuming that a good that was profitable for for-profit firms was also profitable for non-profit and governmental providers.*"

The 'mission' theory means that comparing NPs and FPs on some goods will not find any difference. The distinction is in the production of a mission good. There have been several studies to look for evidence of non-profit organisations delivering a tangible mission good. Looking at hospices in the US Lindrooth and Weisbrod (2007) found that religious non-profit hospices were much more likely to provide services for certain 'types' of case – notably cancer patients. They argue this is a 'mission' good as these cases are much less profitable than other conditions such as dementia and Parkinson's. The reason these different medical conditions can be more or less profitable is to do with the cost structure. Hospices are paid at a flat rate per day from Medicare. However, costs for hospices are not linear, but u-shaped. They are higher at the beginning, and the four days before death which gives an incentive for firms to avoid cases where the persons stay will be short-lived. Whilst it is illegal to select patients, there are several strategies that organisations can use to attract or deter certain types of patients, for example, having specialist treatment facilities for cancer patients. They find there are significant differences in shares of patients with diagnoses of different conditions. For profits have almost double the number of cases of conditions which are generally associated with the

longest stays (and will therefore be more profitable) such as Dementia and Parkinson's, compared to NPs.

Grabowski and Hirth (2003) argue that there are flaws in comparing NP and FP providers because the existence of NPs in a market place has positive spillovers on the market place as a whole. In a data set of nearly all US nursing homes from 1995 to 1996 they find that it is not just the case that on most measure NPs are higher quality, but an increase in NP market share was also associated with higher FP quality along six of the quality measures they include in their study. Their argument is that one of the primary benefits of NP ownership is to help 'alleviate inefficiencies associated with poorly informed consumers'. This follows the argument set out earlier that the NDC means that poorly informed consumers can use NP status as a signal of quality and better-informed consumers can sort into the FP market. They describe this a bit like an 'inverse Gresham's Law' whether the good (which are NPs which deliver the promised quality) drive out the bad (FPs who could exploit these poorly informed consumers). They stress the importance of looking at the quality of the marketplace as a whole, not the individual firms. They argue that even if NP and FP providers have similar quality a change that reduces the role of the NP sector could reduce welfare by changing the prevailing market equilibrium.

2.3.4.2 Costs and wage schedules

There are mixed theories about whether costs will be higher or lower in NPs. The 'incomplete contracts' theory suggests NPs are less willing to make cuts to costs. In this theory NPs may also pay higher wages or have better conditions as they are not allowed to redistribute profits to owners. Some other theories emphasise that costs may be lower in NPs because they can rely on donations of money. Some theories argue that NPs can induce higher effort in their staff than FPs, although there are mixed views on whether they will need to pay higher salaries than FPs to do so.

In the same way that there isn't evidence that quality is higher in the NP sector, there isn't conclusive evidence about whether salaries are higher or lower overall. Mocan and Tekin (2003) found that in the US childcare sector there is a significant NP wage premium at all levels. Malani and Choi (2004) found that there were higher base salaries in the nursing home

industry in NPs, compared to FPs. Most other studies have found that there is either no difference or that wages are lower in the NP sector. Weisbrod (1983) found that lawyers in NP firms made a choice to work in these firms because they cared about serving the public interest, but this meant they earnt about 20% less than they could do if they had chosen to work in a private law firm. In contrast several studies found no differences between wages in the hospital sector Sloan and Steinwald (1980) found no difference in wages in the hospital sector holding other factors constant. Likewise, in the day care industry Preston (1988) found no differences in compensation among smaller firms subject to price competition, but did find higher wages in NPs when finance came from government due to higher quality standards that impeded entry and competition.

There are several studies that have looked at whether staff in public organisations report that they are intrinsically motivated. Cowley and Smith (2013) found evidence of a relationship between people who reported intrinsic motivation and those who work in the public sector, but did not find this to be universal. In countries where there were high levels of corruption public sector workers are less intrinsically motivated than private sectors. Tonin and Vlassopoulos (2015) found that public sector workers were more intrinsically motivated as measured by the indicator on whether retired workers do more volunteering for charity. They found that public sector workers did exhibit higher levels of intrinsic motivation, but this was explained by other attributes that were linked to volunteering, such as having higher education, rather than by them having worked in the public sector. A study by Donegani *et al.* (2012) found that NPs reported much higher job satisfaction compared to workers in the public and private FP sectors, and cited this as evidence of warm glow.

A study by Gregg *et al.* (2011) looks at not just whether staff report being more motivated, but whether this translates into them working unpaid overtime. The argument made by Francois (2003) that PSM will only exist in organisations that have no residual claimant, has been tested by Gregg *et al.* (2011). They did find some evidence that those in the NP sector are significantly more likely to do unpaid overtime than those in the FP sector, which seems consistent with the Francois theory. However, they look at workers who switch sector and they find that they find that people who were donating labour in a NP who move into a private firm do not change their behaviour. They conclude it is not the organisational form that matters for encouraging pro-social behaviour, but it is the people themselves who are motivated and tend to select into working for NP firms.

Malani and Choi (2004) have used data on the nursing home industry in the US. They find evidence that the people who end up on the boards of NP institutions are drawn from the same labour pool as members of FP boards and argue that they have been trained to maximise profits and apply this training to the way they manage NPs. Added to their evidence that salaries are higher in the NPs they argue this means that NPs are little more than 'For-Profits in Disguise'.

A number of studies have found that there is less use of high powered incentives in the NP sector. In summarizing the empirical evidence Besley and Ghatak (2005) suggest that in industries where both FP and NPs are in operation, such as hospitals, for-profits make more use of performance-based bonuses relative to base salaries for managers and that this is consistent with their model that mission matching is more likely in the NP sector. Malani and Choi (2004) also found less use of performance related pay in the NP sector but don't agree with explanations this is due to the presence of more altruistic staff. Instead they argue this is because of a fear that if they rewarded executives with performance related bonuses this would violate the NDC and they may be sanctioned, thus they prefer to reward them with higher base salary instead.

This can also help explain some of the divergence in findings about which sector pays better as it depends if you look at base salaries or if you include bonuses. Roomkin and Weisbrod (1999) found divergence between NP and FP across the different pay scales. They looked at 6 different pay grades in hospitals and found that base salaries were greater at NPs while FPs made greater use of bonuses. When both base salary and bonuses are taken into account total compensation is greater at FPs at the two most senior executive levels, and for one of the lower levels, with the other three job levels having higher pay at NPs.

A crucial part of the theory is not only that there will be less high-powered incentives in the non-profit sector, but that this won't adversely affect outcomes. Delfgaauw *et al.* (2011) found some evidence of this in a study that surveyed management practices between NP and FP firms. In for-profit firms those organisations that score well in management practices (including the use of incentives) also do well for indicators of outcomes. In non-profit firms the relationship is different. Those non-profit organisations who score poorly in management scores don't seem to have worse outputs overall.

In the same way that intrinsic motivation in the public sector may vary between countries, the way in which people respond to high powered incentives may not be universal. The famous relationship that Titmuss (1970) that paying for blood reduced the quality and quantity of donations has not always been replicated. Iajya *et al.* (2013) found that in Argentina found that financial rewards did increase donations. They argue that there may be a distinction between developed countries, such as the UK, where giving blood is associated with being pro-social, and developing countries where blood collection is run by FP companies.

2.4 Involving NP Providers in the delivery of public services

In this section I'll assess some of the specific issues that arise when NPs are commissioned to delivery public services. There are two main stages happen when a public service is to be outsourced to the voluntary (or private) sector. Firstly, there needs to be some understanding of what goals the service needs to deliver and ways that such goals can be measured. Second, there needs to be an assessment of how well competing providers can perform against such goals. I'll look at each of these stages in turn

2.4.1 Performance Measurement

Setting goals or objectives and measuring them is difficult in any sector aside from the most straightforward of tasks (Lazear 1998). There is a huge literature on the challenges and issues with measuring performance in the public sector (see Propper and Wilson 2003 for an overview, or Burgess *et al.* 2002 for a typology). A lot of the literature doesn't specifically consider the role of NP organisations, although many of the issues that apply to government 'in house' provision also apply to NP firms. Dixit (2002) sets out some 'special features' of public sector agencies, which is that they tend to have 'a multiplicity of dimensions – of tasks, of the stakeholders and their often-conflicting interests about the ends and means, and of the tiers of management and front-line workers'. I'll structure the rest of this section around two

of these dimensions – multiple principals and multiple outcomes – and additional issues that arise if performance standards become the basis of a commissioning process.

2.4.1.1 Multiple Principals and motivated agents

Most economic theories of performance measurement use the principal-agent model, as the starting point for analysis (see Dixit 2002). The general theory of this model, is that there is one principal who has the challenge of devising a payment schedule, in order to maximise the effort of the agent. Effort is assumed to be costly to the agent. The more (non-verifiable) effort put in by the agent, the higher the probability of a random outcome occurring.

In the public sector, there are range of differences from this standard model. The first is that, there are many principals. For example, in a large employment training programme (e.g. the JTPA), Dixit (2002), identified several principals: the congress and the public (top-level principals), and job centre managers (middle-tier principals). NPs share these features and also often have a range of other principals, such as trustees, people who donate money and volunteers donating labour.

A second difference is that effort isn't always costly to the agent and, as outlined in some theories on pro-social motivation, some agents may derive benefits from putting in effort. Their motivations are not just simply monetary. When agents have intrinsic motivations, these can intersect with the performance standard chosen in ways that can be difficult to predict.

This has shown to be the case, in a range of examples, one of which is the JTPA, where it was found that agents (the case workers at job centres) did almost the opposite of what the incentives in the performance standards encouraged, and they accepted the least employable applicants onto the programme that would require the most effort to help into work. Dixit (2002) argues this is because the goals of the agents were in line with the top-level principles. He suggested that the motivations of the case workers were a '*good counter to the adviser incentives created for the middle-tier principals – the centre managers – by the gross outcome-based incentive scheme*'.

Some have argued that this is a key benefit of NP provision. Alcock (2010) argues that the non-profit sector may help '*eliminate*' the moral hazard problem, which characterises

principal-agent relations. However, this relies on the agents of the NP providers sharing the same mission as the principal, which may not always be the case. Even in cases where the goals of the principal and the agents are in alignment a poorly designed performance standard may not reflect the underlying goals of the principals. Propper and Wilson (2003) argue that the focus should be on whether performance measures actually help agencies achieve the goals set by policy makers.

A final issue on multiple principals is the role of service users, who do not fit clearly into the principal-agent model. In the public sector, they are not seen as customers whose satisfaction is key to the survival of the provider, in the same way as in the private sector (Besley and Ghatak 2003). There have been attempts to change this, with a policy focus in the UK and other countries, to give service users a wider choice of service providers (Cabinet Office, 2014). NPs are sometimes seen as being more connected to their users than other organisations. There have also been attempts to bring service users onto commissioning or management boards, in order to affect outcomes, and perhaps, take on the role of the principal. (See Boyle *et al*. 2010 for a review of uses of co-production in public service delivery). Another perspective is that service users are not simply '*customers*' of a service, but also have a role in delivering the service. Important outcomes from public services, such as good health and education, rely on service users taking actions themselves in the form of '*joint production between the individual and the service user*' (Simpson 2009).

In addition to service users, society itself, might also be thought of as a principal (Besley and Ghatak, 2003). The nature of public goods means they generate externalities. In the next two chapters I look at legal aid services provided to people experiencing a problem. This service is not accessed by the whole population, but there are benefits to society from the availability of access to justice, for people in need.

2.4.1.2 Multiple Outcomes

A second feature of public services which can complicate the principal agent model is that outcomes are complex and multi-faceted (Prentice *et al.* 2007). It is hard to define what the different objectives are and even more difficult to effectively measure how well they are being achieved. They often fail what Heckman *et al*. (1997) set out as the two implicit premises of

any performance standard: the first, is that agencies have a specified goal or set of goals, and the second, is that these can be quantified, so that success or failure relative to these goals can be measured.

It is necessary to be clear about how different this is from the private sector, where the role of prices, and then profits, can measure effectiveness. A key assumption of most markets is that prices give information about the value of a good or service. There are exceptions, e.g. banking, where price mechanisms are limited or incomplete, but in general, price indices are much more readily available (Simpson 2009). In addition in FP firms every agent is ultimately accountable to the owner(s) of the firm, and how much profit is generated for the principal is the ultimate goal (Besley and Ghatak 2003). This is not the situation for charities and public bureaucracies where the amount of turnover or profit is not an indication of the overall effectiveness and may relate more to the efforts of their fundraising department.

In the absence of such price information, there has been a wide debate about how performance in the public sector should be measured. There is often a trade-off between the outcomes that are most important and those which are easier to measure. The most straightforward measure is often the '*output*' of the service, as in the number of units of the service they provide, for example, the number of inmates in a prison. However, these throughput measures are not very useful. In a private sector service, such as a restaurant, the more meals served the better. The same cannot be said about many public services, since the more inmates incarcerated in a prison, is not necessarily something better. A good value service, is one that offers services, which will make it less likely that inmates reoffend, even if this is higher cost than a comparable prison that does not offer any such services.

There can also be a tension between outcomes that are achieved in the short term compared to those that are longer term or preventative in nature. Simpson (2009) gives the example of fire services that typically balance a range of preventative activities, such as doing fire checks, or installing smoke alarms, alongside their main activity of fighting fires. A measure that only counts the number of fires extinguished, will fail to capture the value of preventative work.

There have been attempts in some areas for the government to commission and pay providers based on their achievement of longer term outcomes (Centre for Social Justice 2011). For example, providers can get payments if prisoners do not reoffend on leaving prison, or for the

number of weeks a person stays in employment. In theory, this focuses spending on those providers, who deliver results. It should also enable providers to innovate to find the best activity to deliver results, rather than the commissioner needing to tightly specify the activities in a contract.

These approaches do not solve the problem of attribution. If an outcome is achieved it can be hard to be certain this was because of a particular intervention or provider. Propper and Wilson (2003) make a distinction between '*gross*' and '*net*' outcomes. '*Gross outcomes*', are the overall change that has happened or is predicted to happen. '*Net outcomes*' are those that are the direct result of the organisation that has been commissioned. An organisation that has high '*gross*' outcomes, may actually be adding very little value, if they are cherry picking the easiest cases. This has been a concern with the '*payment by results*' contract. Although '*net*' outcomes may be a better reflection of the value of the service, they too are very problematic in terms of designing a payment mechanism, because they are more 'noisy'.

It can also be hard to pick an outcome, which does not skew the performance of others, leading to '*adverse specialisation*' (MacDonald and Marx 2001). In the public sector, where a job can often require workers to perform several tasks, perverse effects can arise when only some of these are rewarded (Burgess and Metcalfe 1999). There are a range of other ways that performance standards can be manipulated.

Given how hard it is to measure outcomes, some rely on output measures, or even just measuring processes. This is an approach that has widely been used in the UK, by education body OFSTED. Burgess *et al.* (2002) comment that although this approach is very costly, there has been little evidence that it is effective, particularly when little is known about the causal links between processes and outcomes.

Propper and Wilson (2003) suggest there may be some scope for using targets based on independent information sources, such as household surveys, to measure the health of people living in an area, which they argue could force the relevant organisations to focus on the outcomes that really mattered, e.g. illness prevention, and these measures would be very difficult to manipulate by individual organisations.

2.4.2 Commissioning NP Providers

In this section I consider some of the additional issues when performance standards are put into contracts and become the basis of a commissioning process. This includes how well NPs are likely to be able to compete for contracts, and secondly how they might behave after contracts are awarded. There is a large debate about the relative merits of contracts compared to using grants to fund the voluntary sector, and also about the use of competition in the public sector in general, which I can't cover in detail. Where it is available empirical evidence or data is also explored.

2.4.2.1 Awarding contracts

In the previous section, I set out some of the challenges commissioners have with setting the parameters, or outcomes, they wish to achieve or the activity that will be provided in a contract. Even where they do know what outcomes they wish to achieve, they may not know how much it will cost, or what quantities are feasible. Firms, both FP and NP, have more information than the government in this respect (Dixit 2002).

Some people have argued that NPs have a competitive advantage over FPs, because they can benefit from outside donations of time and money. Lakdawalla and Philipson (2006) make this point, to claim that NPs have a cost advantage, and will enter public sector markets at a lower price than FPs. There are some indicators that providers, both NP and FP, are bidding for contracts at lower than cost price. The Charity Finance Group found that 11 service delivery charities with incomes above £50 million, were making a loss, of 11% on average, on their public-sector contracts (Charity Finance Group cited by Evans 2018). It is not clear whether this was intentional, or if donors are happy for their donations to cross-subsidise government contracts in this way.

There are other arguments that NPs may do poorly when services are competitively tendered. The '*incomplete contracts*' theory predicts that NPs perform better on those aspects of quality which are hard to observe and contract over. It may be hard for NP providers to demonstrate their value, in the tendering process. The 'mission' argues they will be distinct when working towards such a mission, but if this 'mission' isn't a specific part of the service being

commissioned, and there is no extra payment for this part of the NP service, then they may appear more expensive than FPs.

In theory, commissioners of public services should not judge providers on price alone, but also, quality and wider social value. The Treasury Green Book (HM Treasury 2018) states that value should be given to wider costs, benefits, and outcomes, which are not market traded. To give public sector bureaucracies more imperative to do this, the Public Services (Social Value) Act (2012) was introduced, which requires public bodies to have '*regard to economic, social and environmental well-being in connection with public services contracts*'. This legislation has been welcomed by NP providers.

Another of the advantages of NPs, is they are often seen as able to deliver more innovative services. However, if they are bidding for a specified piece of work under contract they are limited in their capacity to innovate, in terms of what the service should look like. There may also be adverse selection in the marketplace as a whole. If NP providers, or quality FPs, are not able or willing to reduce the quality of their service to the unit price specified in the tender, then they may decide not to bid to deliver the service at all. In a similar way that Delfgaauw and Dur (2007) have argued that low wages can lead to adverse selection of workers into the public sector who are not motivated to deliver results, so contracts where a low price is offered to deliver a service may lead to low quality providers selecting in to the market.

Evidence, from the UK, suggests that NP providers, as a whole, are not very effective at winning public-sector contracts. There are some organisations, who are winning contracts, but these are very large NP organisations with incomes of over £10 million. The amount of government funding NPs received, has been either falling or stagnant, for the years between 2010 and 2015 (NCVO 2017), although this has been in the context of the austerity policies, following the 2008 financial crash. There have been such concerns that smaller charities are failing to have a role in public sector supply chains, that the government has recently spoken about launching several new initiatives to try and make it easier for them to be involved (HM Government 2018).

2.4.2.2 Behaviour in relation to Contracts

The second area I'll look at is whether there is anything distinctive about how NPs behave once they have been awarded contracts, compared to FPs. At this stage the information asymmetries take the form of moral hazard. Providers that been awarded a contract have incentives to alter their behaviour in ways which adversely affect the principal.

The first way that providers may do this is by failing to deliver the services they agreed to, or to game the performance standards that are set, in such a way that the commissioner finds it hard to assess that quality has been lowered. There is a large literature on gaming. Several common techniques are to 'cream-skim' which is to select people to take part in a project who will most easily meet the performance standard, not those who are most in need. Another gaming response is to only focus on the outcomes which are monitored, instead of the unintended unmeasurable objective (for further reviews on gaming see Courty and Marschke 2004; Holmstrom and Milgrom 1991; Finn 2010).

There is some evidence that some of the providers for the JTPA with the NDC constraint have been less likely to game performance indicators. Heckman *et al*. (1997) found that training centres behaved differently, and some of those with the NDC were less likely to game. However, there is other evidence from the same project which found that at other training centres there was gaming (Courty and Marschke 2004). Other studies in the public sector on using incentive schemes in the public sector have found that the can raise productivity but can lead to some reallocation of efficient workers towards those tasks which have been incentivized (Burgess *et al.* 2010).

It's not even entirely clear that NP firms will game less from the theory. Indeed, if they don't have any particular intrinsic motivation around the performance standard, they may even game more, or adopt complex strategies towards a performance standard. So, for example, a strategy suggested by Heckman *et al.* (1996) is that workers may cream skim a certain number of candidates onto the programme, in order that they could redistribute their time, to enable them to work with a certain number of candidates who may perform badly on the performance standard. This has some parallels with the 'mission' and 'revenue' good narrative suggested by Weisbrod (2004).

The example set out by Heckman *et al.* (1996) is an interesting perspective of motivated staff 'gaming' the performance standard in order to be able to still achieve their mission. It is also possible that other volunteers or staff may lose motivation entirely. For example, Alcock (2010) argues that people, who thought they were volunteering for a mission driven organisation, may lose commitment, if the organisation ends up devoting a lot of effort to regulatory control. As outlined in section 2.3.3, in the presence of motivated workers, setting targets or incentives can have dysfunctional reactions (Ariely *et al.* 2005; Deci *et al.* 1999; Steed 2013).

Francois (2000) argues that motivation of workers can be diminished in some contract structures, but for a different reason to most of the literature on intrinsic motivation. He argues that as workers are motivated by pure altruism, if contracts are tightly specified such workers may free ride on the efforts of others. This means in some cases, where there is output-based contracting, then the public sector can end up, unintentionally, mimicking some features of the residual claimant. If a worker is given performance related pay or strictly contracted to produce outputs then the capacity of workers, motivated by pure altruism, to affect outcomes will be reduced. This could also apply to a worker is working for a charity who has taken on a very tightly specified contract which may limit their ability to draw on the extra effort of their motivated workers. Francois (2000) made the case that 'privatization and output-related contracting with employees are not that different'.

Another issue is whether competitive pressures may lead NPs and FPs to converge. As set out above, if the specific '*mission*' of the NP has not been commissioned, then as competition between hospitals increases, any differences in behaviour will narrow, as NPs will have '*less latitude than previously to produce outputs they deem to be socially worthy*' (Sloan, 2000).

Sloan (2000) cites evidence of NPs being less able to pursue their mission good, for example Gruber (1994 cited in Sloan 2000) found that there was a decrease in the amount of care hospitals in California provided to the uninsured as a result of increased price competition. Kapur and Weisbrod (2000) also found some evidence this has happened using data from nursing homes they some signs of convergence and make the case that it was 'growing regulation and changing market conditions that forced government and non-profit firms to act more similarly.'

A paper by Lu (2016) found that in response to a quality disclosure to improve information provided to consumers NPs respond in the same way to the quality disclosures as FPs, so they improve quality along the reported dimensions and reduce quality on dimensions that are not reported. She still does accept the theory that NPs are simply "FPs in disguise' because there are some other dimensions under which NPs behave differently, so for example NPs report fewer deficiency citations.

Glaeser and Shleifer (2001) note in their paper that if governments are particularly weak at monitoring contracts they will tend to specialize in dealing with NP firms. In practice it may be difficult for commissioners to make a case that they can restrict a competitive process to NP firms or that a service should maintain the use of grant funding.

2.5 Discussion and conclusion

In summary, economic theory has put forward a range of benefits that NP providers can bring to the public sector in terms of higher quality, a more motivated workforce, more innovative missions. The empirical evidence is more mixed as to whether these have been realized in practice, although to some extent this is because some of the attributes that NPs may perform better on are those that it is very hard to pick up in some performance standards.

This review highlights some issues with the new role that NPs have as a subcontractor of the state. One of these is whether NPs will be successful in winning tenders and if the characteristics that politicians have stated they value about the NP sector are being adequately valued in the commissioning cycle. Some data from the UK indicates that the NPs that are winning government contracts are very large charities, and to win these contracts they have had to emulate practices from the private sector. This may come at a cost of drifting from their mission. More research is required on the extent to which NPs who are successful at winning contracts have been able to maintain their distinctive features, and also the effects of the process on the motivations of staff and the quality of service.

This review also raises some questions about the role of altruism in the public sector, which has often been assumed to be unambiguously good. The ways in which people volunteer has

changed dramatically since Beveridge wrote his report on voluntary action. Beveridge (1948) wrote at length on the role of friendly societies, where people came together to volunteer in ways which were explicitly mutually beneficial. Now more volunteering is focused on doing things for other people, although sometimes the impact on the recipient of the volunteering is not always assessed. Much of the renewed focus on volunteering focuses more on the benefits that volunteering brings to those who participate. More evidence is required about the extent which it boosts service quality. There may be areas which are better suited to the use of volunteers, for example, hospices, where people may value the care and empathy a volunteer brings. In other areas, such as Legal Aid, users of the service may value care and empathy, but somewhat below the skills and knowledge that a fully qualified solicitor who is being paid may bring.

Finally, there are some important questions about the role that NPs will take in society in the future. We have had several decades where NPs, and public bureaucracies, have been encouraged to learn from the private sector, to be more efficient, and to offer choice to customers. In a strange reversal of fortune, more recently, we have seen the debate shift no longer from what NPs can learn from the private sector, but the other way around. Few people could have predicted that the Archbishop of Canterbury would give a speech advising bankers that they should focus less on profit and more on care and values (Malnick 2013); or that after years of privatization, we would see the nationalization of some large private banks.

This raises the question as to whether NPs should be restricted to their traditional areas of health and education. Perhaps a new area for more NPs to explore could be in banking and finance, which may be the area where we need non-profit organisations and pro-socially motivated staff the most.

3 To profit or not to profit: quality and competition in legal aid services

Abstract

This chapter adds to the empirical research evidence on whether there is anything distinctive or different about non-profit providers of public services compared to their for-profit competitors. I use a unique data set from the Ministry of Justice to test for quantifiable differences between providers of legal aid services. I focus on three questions; do NPs have a different client base? Do they behave differently in relation to cases? Do they differ in their outcomes? I find some evidence of a distinctive 'mission' with NPs having more clients with a disability, and they have better outcomes in the areas they have traditionally specialised in such as welfare benefits advice. However, I do not find that they are higher quality overall, for example, in immigration advice they take a lot less time and report poorer outcomes for clients than for-profit firms.

3.1 Introduction

Is there anything different or distinctive about NP providers of public services, in comparison to their FP counterparts? Some politicians think the answer to that question is yes, and in several countries, there has been a concerted attempt to get more NPs to deliver public services. In the UK, for example, the coalition government of 2010 to 2015 set out their intention to make a '*decisive end to the old-fashioned, top-down take-what-you-are-given model of public services*' (HM Government 2011). One of the major aims was to increase innovation and performance in the public sector by encouraging more providers from civil society to deliver public services

The interest shown by some politicians in encouraging charities to deliver public services has been supported by some theory and empirical evidence within economics. In theory most economists have argued that NPs bring some potential benefits to the delivery of services. Some theories focus on the non-distribution constraint they face, which means they are unable

to distribute profits among themselves, and so consequently, have a lower incentive to cut quality and costs (Hansmann 1980; Glaeser and Shleifer 2001). In services where quality is important, and asymmetries of information make it hard to monitor or measure, this means NPs offer considerable advantages (Hart *et al.* 1997). Other theories argue that the benefits of NPs are linked to their ability to attract volunteers or altruistically motivated staff who can put in extra effort, without this being exploited by a profit seeking manager (Francois, 2003).

On the counter side, there are other theories that there is little real difference between NPs and FPs in practice; with NP organisations being just '*for-profits in disguise*' (Malani & Choi 2004). Even economists who are positive about the contribution of NPs, have expressed concern that the distinctive features of NPs cannot be maintained when they are put under more cost pressure through competition. Other authors such Grabowski and Hirth (2003) have argued that the benefits of NP provision are the positive spillover effects they have on the marketplace as a whole, they cannot be observed in the behaviour of individual providers.

Another set of theories have been described as '*hybrid*' theories by Lu (2013). These theories make the case that the distinguishing feature of NPs is that they are set up with a specific mission. This leads to predictions that the quality of service delivery will be higher than, or the behaviour different to, for-profits, if the activity is geared towards this mission. If activities are undertaken by NPs to raise revenue to subsidise their mission, the quality potentially will not differ from NPs (Weisbrod, 2004). Besley and Ghatak (2005) argue that productivity in NPs will be higher, if, there is a good match between the mission motivations of the NP and its workers and staff.

The main contribution of this paper is to use a large and unique dataset, to add to the growing research on the differences in practice between NP and FP providers. The dataset was acquired from the Ministry of Justice on Legal Aid. This is an area, like many other public services, where quality is hard to assess and contract over. Furthermore, there is a risk of higher social costs for individuals and society, if people are unable to access high quality advice. In this area, NP and FP providers had been funded differently, up until 2007, when all providers had to compete to deliver contracts under identical funding conditions. The structure of these contracts used fixed fees, which have been used in many other public services. The market place for these contracts were a mix between private solicitors, which will be referred to as for-

profits ("FPs") in this paper, and a more diverse collection of organisations that are not-for profit ("NPs") which include Law Centres, Citizen's Advice Bureaux and other charities.

Before conducting the empirical analysis, I apply the economic literature on NP delivery of public services to legal aid. From the literature review, I develop four hypotheses, and use regression analysis to test for differences in observable characteristics between NP and FP providers of legal aid, to see how performance between them differs in four main areas. The first area is the client base of providers, where I look at whether NP providers are more likely to take on cases with clients with a disability or ethnic minority. The second is the characteristics of the case, and whether NPs take longer to complete cases. Prior to the introduction of the contracts, the average time taken per case to reach a final outcome was significantly longer for NPs than FPs. The third area relates to the quality of advice and whether NPs get better outcomes for clients, based on the definition of outcomes used in the performance standards. The fourth area is whether NPs arrive at different outcomes to FPs based on disaggregating the outcomes in a way that is not monitored in the contracts.

I find that NPs have a number of distinctive features in comparison to FPs. The first is that they serve a different client base, with a larger number of clients with a disability. This finding is consistent with theories that NPs have a distinct 'mission' to deliver in more community settings. This is consistent with findings in other service areas that NPs provide services to poorly informed consumers (Grabowski and Hirth 2003).

However, unlike in the research from Grabowski and Hirth (2003) I do not find consistent evidence that NPs deliver a higher quality service. There are some areas where they do perform well, such as welfare advice and housing advice, where they get better outcomes and take a similar amount of time. Conversely, in immigration, the picture is very different, and FPs take over an hour more time per case. This is not consistent with the "*incomplete contracts*" theory that NPs are less likely to cut cost and quality than FPs, and the amount of time taken has implications for the outcomes of the service provided. In immigration advice, as might be expected by the lower amount of time spent per case, NPs close less cases with outcomes that are of substantive benefit than FPs and significantly less people who go to NPs get permission to enter or remain in the UK permanently.

The providers also get different types of outcomes. Some of these differences can be explained by some of the different features of NP and FP providers. In debt advice, the market is dominated by Citizen's Advice Bureau, who use a lot of volunteers to deliver their service and typically do not employ solicitors, so are less likely to take on an adversarial approach to debt advice where the debt is challenged (Moorhead *et al.* 2003). This may explain my finding that in debt advice NPs report more cases with substantive benefit to the client, but, they close very few cases where the debt is challenged or written off, compared to FPs.

In housing, where the NPs in the market are more likely to be law centres who do employ solicitors, this is not the situation. The disaggregated housing outcomes show that NPs are more likely to get the more tangible outcomes, such as the client retaining their home. In welfare advice, NPs get better outcomes and this is an area the NPs have always specialised in, whereas FPs have not.

This research does find evidence that NP providers have some distinctive features, but in immigration and debt advice, these features are not indicative of a higher quality of service. The results raise some concerns from a social justice perspective because users of a service may not be aware that if they go to a NP provider they may be less likely to have their immigration application or asylum claim granted, or their debt written off. It is not clear whether the users are selecting to go to particular provider types, by choosing the service that is best for them, which is a key assumption of increasing supplier diversity in the Open Public Services White Paper (HM Government 2011). Research suggests that people who are less poorly informed of their rights in general go to NP providers in Legal Aid (Patel *et al*. 2008). This means that NPs have some additional value in terms of reaching people who would not otherwise access advice, although it may be preferable if they more NPs were able to work in collaboration with FP firms, in areas in which they have less expertise.

There are some important caveats to the findings. I have only tested differences between NPs and FPs on observable characteristics. Some of the theory suggests that they will differ on aspects of quality that are not easy to observe. Also not considered are the range of other activities that NPs deliver alongside the individual case work that is funded through these contracts.

This paper is organized as follows. Section 2 starts out with an overview of legal aid and the development of a unified funding for this area. Section 3 sets out some of the literature on NP providers in the public sector and this is applied to the delivery of legal aid services. Section 4 describes the data sources and the empirical strategy. Section 5 sets out the main results, and a discussion of these results is set out in Section 6. Section 7 concludes.

3.2 Overview of Legal Aid and the Contract Changes

In this section, I set out some of the features of legal aid that are important for the analysis in this paper, such as the mix between NP and FP firms, how quality and outcomes are monitored, and the funding changes that took place just prior to 2009, which is the time period of the data I am analysing here.

When people think of legal aid their immediate thought is often of criminal legal aid which is the advice and representation funded by the state that people can access if they are accused of a crime. The focus of this research is on a second and very different type of legal aid – civil legal aid or what is sometimes called 'social welfare law'. This is the advice and support people are able to access when they experience a problem in an area such as housing or accessing benefits.

Legal aid is a type of public provision, similar in some respects to emergency services, in that some people will never use, and may not even be aware exists. It is typically accessed by people only when something goes wrong. It is not a universal service and is subject to increasingly stringent means and merits tests. In 1998, 52 per cent of the population were eligible for legal aid, falling to 29 per cent by 2007 (The Low Commission 2014). Even those who are eligible are often not aware of their rights and, so consequently, will not access any services when they experience a problem (Balmer *et al.* 2010).

Despite many people not being eligible, and many people who are eligible not accessing the service, it is still used by a relatively large share of the population. In the data set used in this study, there are over 750,000 cases with 638,223 unique clients using the services. This equates to roughly 1 in 100 of the UK population accessing this service over 2009-10. This data set only includes people who access publicly funded legal aid advice. There are large numbers of

voluntary providers offering advice, which is not funded through the Ministry of Justice contracts and are therefore not included in the data set analysed in this study.

3.2.1 Diversity of provision in Legal Aid

When Legal Aid began being publicly funded in 1949, it was delivered almost exclusively by private solicitors and administered by the professional regulatory body of solicitors, the Law Society (Moorhead *et al.* 2003). This is quite different from many other public service areas in the UK, such as such as health care and education, where services were founded by charities.

When Legal Aid was founded, Moorhead *et al.* (2003) argue it represented the '*interests of the legal profession.*' Between 1973 and 1986, there was an expansion of legal aid, which included more areas of social welfare law that had a greater impact on poor and disadvantaged communities (Hynes 2012). In 1989, the administration of the legal aid scheme was removed from the Law Society and placed into the hands of a government agency. In part this was to reflect that legal aid was no longer exclusively delivered by solicitors. This was initially called the Legal Aid Board (LAG). In 2000 this was replaced by the Legal Services Commission (LSC), which ran the legal aid schemes for the time period studied in this paper. The LSC was replaced by the Legal Aid Agency (LAA), an executive agency of the Ministry of Justice on 1 April 2013.

There is a great range of diversity in the NP organisations that deliver legal aid. Hynes (2012) argues that some advice centres do little more than give information on the law, while others will provide casework services to a similar, if not higher, standard to lawyers/FPs. The largest and most well recognised of all the NP organisations are Citizens Advice Bureau ("CAB") (Patel et *al.* 2008). The CAB were set up to give people advice and information during the Second World War and their approach has tended to be more focused on disseminating information. Most CAB offices have a few typical features; they tend to be located within a community network, they primarily do not employ solicitors, they have a large number of volunteers, and tend to specialise in debt and welfare cases. There is a lot of diversity among the individual Bureaux, but they all operate underneath the network and branding of the national Citizens Advice Bureau charity.

Law Centres are another type of NP advice provider that operate through a national network. They are distinctive from other NP providers in that they mostly do employ solicitors. In 1970, the first Law Centre was established to address a shortage in lawyers with specialist knowledge of social welfare law, and a lack of access of legal advice, in terms of location, access, language and physical accessibility. When Law Centres were initially founded, Hynes (2012) argues that the Law Society felt threatened by them and initially tried to prevent solicitors from practising in them. Government intervention followed, which allowed the continued existence of Law Centres as long as '*they did not impinge on the commercial interest of private practice*'.

These differences in the way that NPs and FPs have developed, means there are some distinctions between the providers, and therefore, neither group is homogeneous. FPs providers of legal aid tended to focus on the type of cases where there was an overlap with their non-publicly funded work., Hynes (2012) gives the example of FPs being more likely to specialise in family cases (which are publicly funded) because this complements some other areas of the law that they take on privately, e.g. divorce cases.

3.2.2 Unifying the contracts for FP and NP providers

Although NP and FP providers of legal aid had coexisted for some time, the first attempt to fund them in the same way came in 2007 with the introduction of the 'Unified Contract'. As the name suggests, this unified the funding conditions between both provider types with the intention of creating a '*level playing field*' (Trude and Gibbs 2010) in the delivery of publicly funded legal aid between NPs and FPs.

The introduction of these contracts followed a review of legal aid by Lord Carter of Coles (2006) which was published by the Ministry of Justice. His report was motivated by a desire to reduce public spending on legal aid, and he recommended using a market-based approach to procure legal aid services. The recommendations he made were not adopted in full, but, this did pave the way for fixed fees to be introduced for all providers of legal aid. For NP providers this was a big change since they moved from being paid for the number of hours they worked on a case, to being paid for the number of cases they took on. In contrast, most FP providers began using a type of fixed fee payment structure in 2004, although unlike the contract

introduced in 2007, these fixed fees were 'tailored' to the average cost per firm. In some exceptional cases, providers can make an application to get paid at the hourly rate.

The purpose of introducing the new contracts was not just to standardise conditions between all the providers, but to introduce an efficiency imperative among providers bidding for contracts. The fixed fee schedule puts providers under tight time pressures as they get paid the same fee, regardless of the time taken on the case. Any providers that consistently take longer than the allocated time for each case will end up making significant losses. The amount of time allocated is slightly different for each different area of social welfare law. An intention of the new contracts was to encourage some providers to exit the market and reduce the number of firms delivering legal aid. The Carter report expressed concerns at the higher costs of NP providers, and particularly in the categories of debt and welfare benefits, where NP providers hold most of the contracts. In debt, NP providers average cost per case is £332, compared to £199 for FP providers. In welfare benefits, NPs average cost per case is £353, compared to £243 for FPs (Lord Carter 2006).

When the Carter Review (Lord Carter 2006) was published and the changes were introduced there were concerns that the changes would lower the quality of advice. In part, this motivated Lord Bach to conduct a review called the '*Study of Legal Advice at Local Level*' (Ministry of Justice 2009). Similar concerns were set out in a report by the House of Commons Constitutional Affairs Committee (2007) which made the case that the risk of reducing access to justice outweighed the cost savings that could be made from the changes to the funding of civil legal aid.

One of the key arguments for the NP delivery of public services is that NPs may provide higher quality services in areas where there is contract failure and asymmetric information. It is difficult to assess whether the longer case time taken by NPs, prior to the reforms, s was because they were providing a higher quality service or were simply less efficient. In an area such as legal aid, where contracts are incomplete, and the quality of care is hard to observe, it can be difficult to measure the performance of providers. In the next section, I spend some time assessing how quality has been attempted to be measured within legal aid.

3.2.3 Measuring quality and outcomes of providers

In this chapter, I am comparing the performance of NP and FP providers on how they deliver legal aid. The assumption here is that it is possible to measure and compare the outcomes between providers. Legal aid is subject to many of the issues around performance measurement in the public sector, that were discussed at length in Chapter 2, which mostly stem from there being multiple principles and multiple outcomes.

The provision of legal aid has some similarities with the standard model of the Principal-Agent 'problem'. In this model, there is typically one principal, which in this case would be the commissioner - the LSC, who may have different objectives to the providers of legal aid (the agents). The challenge is to get the agent to carry out the desires of the principal, which are presumed to be in conflict. The commissioner and the providers of legal aid are likely to have some shared objectives, about the provision of justice and good quality advice, but they may have different cost priorities, or different ideas about how this should be delivered.

In the standard case, the agents are motivated by maximizing rewards (payment) and minimizing effort. The difference to the standard model is that there are wider variety of principals, particularly for NP providers who also have trustees, volunteers and donors, who each may have different objectives to the commissioning body. NPs also secure funding from other government bodies, aside from the LSC, who also may have differing priorities. Another difference is that agents and the staff that work in both NPs and FPs may have a range of different motivations aside from payment.

There are also a wide range of varying outcomes that can result from legal aid. This leads to a range of challenges in measuring performance. When the output is perfectly observable, the principal can generally reward the agent directly for their effort (see Simpson 2009 for a discussion). It is more difficult when the outcomes are multifaceted (Prentice *et al*. 2007). Given the range of different outcomes that can take place, rewarding solely one of these can have negative effects (see Holmstrom & Milgrom 1991; MacDonald and Marx 200 for more formal analysis).

The performance measurement system used in the unified contract is centred on the immediate or short-term outcomes for the client. Many providers see the outcomes of legal aid being much

wider than this, and thus, talk about the role of legal aid in upholding justice and the important benefits it imparts to society as a whole. Advice UK (2008), for example, found that large numbers of people came to seek advice following a failure to correctly administer benefits payments by the Department for Work and Pensions (DWP). Some advice providers see a key part of their role as being to feed this information to the DWP and encourage them to change the way benefits are administered to prevent further people needing to access advice in the future. Another example is immigration advisers repeated attempts to raise attention of miscarriages of justice towards British Citizens from the Windrush generation because of the Home Office's decision making, led to policy work from organisations such as the Legal Action Group (Bawdon 2014).

As well as the broader impacts on society as a whole, many advice providers have argued that the outcomes used in the legal aid contracts do not capture the longer-term benefits of good quality advice. These longer-term outcomes are more difficult and costly to monitor. When NP providers have produced guidance or reports on the outcomes they achieve for their clients, they include long term outcomes, such as the health and education of their clients, as well as community outcomes, such as reducing social exclusion (see Bhavnani 2005; Citizens Advice Bureau 2010; PWC 2013).

Another challenge of measuring advice is that, in common with many public services, productivity does not relate to the volume measure of the output of an organisation (Simpson 2009). An organisation that delivers a large number of units of advice is not necessarily doing a good job. Many providers see their role as equipping people to be able to solve problems by themselves, so they will not require further advice in the future (Randall 2013 for a discussion of prevention in advice). Advice has parallels with other public services, where prevention is a goal, but this is often not picked up in performance measures (Simpson 2009). The value of advice in preventing future problems happening has been the focus in how some NP providers demonstrate their impact, (see Citizens Advice 2010 for example) as well as on the interest within the sector of initiations such as Public Legal Education, which has the goal of building the knowledge and capability of the population (Joe Randall 2013; PLEAS 2007).

A final challenge in measuring outcomes of advice, is the question of attribution. Like many other public services, outcomes depend on some random component, so the principal is not able infer the workers effort precisely from the outcome achieved (Burgess and Ratto 2003).

So, for example, in immigration cases a grant of leave to remain is unambiguously good for the client. However, in some cases the person would probably be refused the right to stay, regardless of what the legal provider does. A report by Trude and Gibbs (2010) sums this up well:

"in individual cases, outcomes could never be used as a measure of quality, because high quality legal representation may still result in a negative outcome for an individual client."

If providers were set a target around the number of people that get leave to remain this would lead to very strong incentives for providers to select clients and not represent some cases.

This means that legal aid providers have never been paid for achieving certain outcomes, as has become a trend in other public service areas. There have been two main ways of ensuring quality among providers that deliver legal aid contracts, and neither of these are perfect.

The first is by requiring all providers to meet a particular quality standard. There are several tools used to assess this standard. All providers are required to submit an application for the Specialist Quality Mark (Ling and Pugh 2011), which is mostly focused on auditing the processes and procedures providers have in place. Another tool, which is held in wider esteem by the sector, is Peer Review; where the cases, rather than processes, are reviewed. The peer review system used in Legal Aid has 5 levels, and the LSC has set the level required at level 3, which is '*threshold competence*' although authors such as Trude and Gibbs (2010) argue that level 2 '*competence plus'* would have been more suitable to ensure quality advice.

The second is the introduction of a number of Key Performance Indicators (KPIs), which were designed to capture quality of work, accessibility and value for money (Legal Services Commission 2010). Some of these attempt to ensure that providers do not spend very short amounts of time on cases. Another of these concerns the outcomes of the cases closed, with a target for the number of cases they close with an outcome that is said to have had a '*substantive benefit*' to the client. The targets are different for different areas of law. The target is highest for debt and welfare benefits at 50%, for housing it is 40% and for immigration is much lower at 15%.

The term '*substantive benefit*' (sometimes also called 'positive outcomes') may be a bit misleading, because in reality, a provider can close a case with this outcome code when, in fact, very little of benefit has happened with the case. In each area of law, there are a range of outcome codes and the LSC have defined some of these codes as being of '*substantive benefit*' and some that are not. In practice, most of the cases that are called '*substantive benefit*' are just a case being closed, and there is a lot of variability of impact within this code.

Some of the outcomes within substantive benefits are rather 'i*ndeterminate*' (Citizens Advice, 2010). In a paper by Balmer *et al.* (2012) they ask, '*how substantial is substantive benefit*' and argue that the imperative to monitor outcomes has obscured large differences in the quality of advice. They draw attention to the fact that, in some types of advice, a large number of cases are closed with the outcome code '*client advised and enabled to plan and/or manage their affairs better*', which is significantly less tangible than an outcome, such as, a client being '*housed, rehoused or retaining a home*' Yet both these outcomes count within the definition of '*substantive benefit*'. This means that providers may be able to game the performance standard, and report the outcome '*plan better*', even when they have done very little work on their client's case. Despite these problems with the outcome measures used in the contract, it is the only indicator I have available.

3.3 Theories of non-profits from economics applied to legal aid provision

There is a growing literature on the role of NP organisations within economics and their role in delivering public services. Some early papers argue that NPs are less preferable to FPs, because the lack of a residual claimant means they will be less efficient, and workers in NPs will be less motivated (Alchian and Demsetz 1972). More recent papers emphasise that the lack of residual claimant and the fact that NPs are barred from distributing profits to people who control the firm (Hansmann 1980), can be a positive attribute, as it means they are less likely to cut quality (Glaeser and Shleifer, 2001). They can also attract donations of money, or labour from their own workforce or volunteers, which can increase quality or reduce cost (Francois 2003; Lakdawalla and Phillipson 2006). Other theories argue that the most important feature of NPs is that they have a distinct mission (Lindrooth and Weisbrod 2004), and that donations of labour will be more important when volunteers are matched with a firm that has the same mission as them (Besley and Ghatak 2005). The preceding chapter considered these

arguments in more detail and set out how these theories lead to predictions about how NPs may differ from FPs in the delivery of public services. In this section, I look at how some of these ideas apply to legal aid.

3.3.1 Incomplete contracts

Hansmann (1980) argues that in areas where it is hard to write complete contracts over outcomes, then NP providers can have significant advantages over FP providers, because their lack of a residual claimant means they are less likely to cut costs and quality. Glaeser and Shliefer (2001) show this gives a rationale for an entrepreneur, who is not altruistic, to choose to be NP, as a way of signalling to consumers that they will be higher quality.

The idea of '*incomplete contracts*' isn't enough to justify the use of non-private providers and it depends on the extent to which quality is important. In some cases, cutting costs can considered a good thing, because it may also reduce the cost to the public purse in delivering this service. In other cases, where the social costs of cutting non-contractible quality is large, the case for provision by FP providers is weakened (see Grout 2009; Hart *et al.* 1997).

This means that for services, where it is easier to specify outputs on contracts and/or the social costs from incomplete contracts are minimal (e.g. refuse collection), then there is a stronger case for private provision. For services where it is hard to specify outputs in contracts, and there are high social costs from outputs not being specified, then, conversely, there is a stronger case for non-profit provision. Legal aid would fit the latter category, as there is a care element in providing face to face advice, high variability in the quality of case work that is hard to assess, and high social costs if people are not adequately represented, such as being denied the right to a fair hearing, being deported, or being made homeless, as a result.

This theory leads to two predictions on how NP providers may differ from FPs. The first, is on the time taken per case, which is an indicator that providers have cut costs. It is hard to make a clear judgement if reducing time is good or bad, as providers can be reducing the time they take because they are more efficient, but the time pressures in the contracts were seen to be something that could risk quality.

The Bach report (Ministry of Justice, 2009) looked a number of potential ways that providers might game the contracts, which included cherry-picking, paralegalisation and case-splitting. I will focus on their first concern, cherry-picking, as this is the one that most closely impacts on the time per case: A number of commentators have raised concerns that the time pressure gives providers the incentive to 'game' the standard contract, by not taking on certain cases. These are typified by the concerns set out by one provider below:

"we get paid as much for doing a debt case that's got two debtors in as for doing a debt case which has twenty debtors ..., so if we were a commercial organisation we would turn away the twenty- debtor cases because they are just too complex" (advice centre cited in Ministry of Justice, 2009)

This might mean that providers may cream-skim clients, or they may take on cases that are complex and complete them to a low standard. It is hard to identify which cases will take longer. Previous research has found some factors that influence whether a case will take longer. Smith and Patel (2008) found that with debt advice, the number of debt types was a key indicator for advice time. Therefore, clients who have multiple debts, will take the longest to complete. Unfortunately, the data set I analyse in this paper does not have this level of detail on the nature of the cases funded. Smith and Patel (2008) also found that people receiving disability benefits had longer advice time than those who were not. Conversely, they found that BME clients had shorter advice times. It is not clear if the longer advice time for clients on disability benefits, or in outreach centres, is to do with the needs of the client, or because these are more likely to be delivered by NP providers. If it is the case that these types of cases take longer to complete, providers have an incentive to take on fewer clients with a disability.

This second hypothesis from this theory is that NP providers will be higher quality than FP providers. I will look at the differences between the outcomes reported by NPs and FPs testing if they are different. The challenge, of course, is that this theory predicts that the quality will be higher on those attributes which are hard to measure, therefore, comparing performance between providers, solely on the measures that are in the contract, has limitations. I also compared NP and FP providers on outcomes that, while observable from the dataset analysed, are not monitored as part of the contract. The measure I use is how often providers report an outcome code that gives a less tangible outcome for clients.

3.2 Having a unique mission

A second set of theories on NP provision argues that their distinctive feature is they have some core '*mission*', which they have been set up to achieve (Weisbrod, 2004). This is sometimes characterised by a 'two good model' where charities face a '*trade off*' between two objectives. The first objective is to produce a "*revenue good*" which makes money, and '*mission goods*' which may not make money but help achieve the objectives of the charity (Lindrooth & Weisbrod 2007).

Within the economics literature, these two goods have been characterised in different ways. One interpretation means delivering the same good, but to different groups of people. A lot of the empirical evidence has found NP providers delivering to a different client base. Norton and Staiger (1994) look at the performance of NPs in one particular area – the provision of medical services to the uninsured. This provision of free care to the uninsured is seen as one of the most important ways that hospitals can differ. Their study found that, for a given hospital, there is no evidence that FP ownership lowers the volume of uninsured patients they take on. However, FP hospitals locate in better insured areas, and consequently, overall, take on less uninsured cases. While FP hospitals provide adequate community service to the communities they choose to serve, they also avoid areas with large numbers of uninsured.

In legal aid, this could translate into NP providers delivering to different types of clients. NP legal aid providers often make claims that they deliver to clients, who are in particular need. So, for example, on the CAB website they make a point of highlighting that each of their centres:

'*plays an integral role within its local community… to understand, respond and adapt to local needs… We are a local service, working with the local people, for the benefit of the community*' (CAB, 2017).

The Law Centre's Federation expresses a similar mission statement, to serve local communities on their website. In their annual report for 2016-17 (Law Centre's Federation 2017), they also showcase examples of their work, where they were able to support people who were in chronic need. For example, the North Kensington Law Centre are currently supporting Grenfell survivors, and claim they are one of the few local organisations who the residents trust.

There are also differences in where providers locate geographically around the UK. FP solicitors firms are usually based in an office near the centre of town and are located predominantly in large urban centres. In contrast, NPs are more likely to be located in rural areas or in outreach centres. An additional dataset, I requested from the Ministry of Justice, contained a full list of all providers operating in each region in the UK, including those holding contracts as well as those without. This data shows that in the UK there were 1179 outreach offices, all of which have non-profit organisations as their main office. An outreach office is one that is run in a community centre, or GP's surgery, or more accessible location. Other research (Smith and Patel, 2008) has found that people who access advice in outreach services for debt advice, were different from those who accessed services funded by mainstream LSC contracts, and they were more likely to be younger, male and more ethnically diverse. Their data set also found that people who accessed outreach projects, were often clients who were financially excluded, and had not previously sought advice.

A second interpretation of the two-good argument, is that NP providers may effectively deliver two separate types of good; one that is profitable, and another that is not. Chetkovich and Frumkin (2003) give the example of the Red Cross in the USA, who supply blood to rural hospitals, even though this is a loss-making activity. This could apply to an individual providers case load, where they take on cases that will take longer than the fixed fee, thus, making a loss, which they then balance with shorter cases that take less time than the fixed fee, on a 'swings and roundabouts' basis. It could also apply to the sort of activities that NPs do that comes outside of individual case work. This includes activities such as public legal education, or taking on test cases to challenge legislation, that have a wider reaching public benefit.

One of the concerns from the Ministry of Justice (2009) study, conducted by Lord Bach, was that with the rise of contracts and commissioning, such as the approach adopted by the Ministry of Justice, where agencies were funded to provide a set number of units of advice, NP agencies would find it harder to get support for social policy and preventative work not funded by legal aid.

Another way that a different mission can manifest, is through a different way of delivering a service. The theory outlined by Besley and Ghatak (2005) is that NPs can be more effective when there is a matching of missions. In legal aid, Moorhead *et al.* (2003) found differences

in the way that the types of organisation approached cases. For example, in debt cases, NPs were more likely to adopt an approach known as '*debt counselling*', compared to the more litigious approach of solicitors. This may be a sign of mission matching or be related to differences in the scope of work NPs are permitted to undertake, with solicitors being able to conduct all types of litigation, whilst NPs are not.

This theory leads to several predictions of how NP and FP providers may differ. As some of these are about pursuing a mission and different activities from those funded through the legal aid contracts, the data I have does not adequately reflect the full impact made from what some of the organisations do. Nonetheless, I will be able to test for differences in the type of outcomes that the different providers get, as well as whether NP providers take on clients with different demographics.

3.3.2 Pro Social Motivation

Another potential advantage of NP organisations, is that they may be able to attract additional donations of money or time from volunteers or paid staff, which can help to lower the cost of provision (Francois and Vlassopoulos 2008) and improve quality.

There is a debate about whether only NP firms will be able to attract donated labour, in the form of extra effort, from employees who are intrinsically motivated. Some authors have argued that altruism will only be present in non-profit firms. Francois (2003) argues that any additional effort that workers exert in a for-profit firm, will be exploited by the manager of the firm. For example, if staff work harder to take on more cases, managers may exploit this by hiring less staff, and so, workers may feel that their behaviour is not having any impact on outcomes and stop doing unpaid overtime. The theory predicts that in non-profit firms this is less likely to happen, and any effort that pro-socially motivated workers are willing to provide will improve the quality of output (Gregg *et al.* 2008).

Besley and Ghatak (2005) offer a different interpretation of the role of intrinsic motivations. They suggest that workers have mission preferences about how the service should be delivered. For example, advisers may choose to work in a certain type of legal aid organisation, because they believe in delivering advice in a certain way. Similarly, in FP solicitors practices, workers

may be attracted to a particular firm, because of their reputation on delivering legal aid work. The importance of non-profit organisations is not just that workers are motivated, but that there are different '*types*' of motivated workers and motivated agents. Productivity will be higher when the types of mission and intrinsic motivations of the agents are well matched. Crucially, this needs to not only take place in NP organisations, but, may be more likely than in FPs, due to a clear focus on a distinct mission in NPs.

There are several ways that this could apply to the legal aid contracts. The first, is that workers at NP firms may be more likely to work unpaid overtime to work on cases and to ensure quality of advice is high. The second, is that NP providers may be able to attract volunteers to work unpaid on their service, in addition to paid members of staff. This may mean the NP providers may be better value for money, as they can mobilise more resources. Some NPs use a large numbers of volunteers, who are not qualified solicitors, to deliver their service. For example, the CAB have over 20000 volunteers, and their website (Citizen's Advice Bureau 2017) proudly states that volunteers are at the heart of their service. There is a question about what the implications will be in terms of quality, as volunteers may have lower qualifications than paid staff. Moorhead *et al.* (2003) found that non-lawyer firms were cheaper per hour because of lower wages and using volunteers, but they spent more time per case, so had a higher average cost.

Third, NPs may also be able to attract additional donations, not just in terms of labour, but by attracting funding from other sources. In legal aid, many non-profit organisations are able to attract significant additional funding, with much of this coming from local authorities, and also from other philanthropic funders.

I do not have data on whether staff are working unpaid overtime, or whether volunteers work on cases, but it is important to understand these are differences between providers. It is also possible that NPs will find it harder to keep workers motivated, if they are working under very strict time constraints in the contracts, and if they are prevented from working on activities that they see as core to the NPs mission.

In summary, although providers are not permitted to select clients on the basis of observable characteristics, some NP providers may have set their service up in a particular mission driven way, so as to be more likely to be accessed by people who are socially excluded, for example,

by providing outreach services. I will test whether this leads to any differences in the observable characteristics of clients.

3.3.3 Research Questions

In the previous section, I set out an introduction and applied some of the economic theories on NPs, from the previous chapter, to legal aid and set out several ways in which NP providers may differ from FP providers. Some of these are not testable from the data I have access to, and some of the theories suggest NPs will be distinctive in ways that are difficult for third party observers to assess. Nonetheless, there are several ways in which providers are likely to differ, from the '*incomplete contracts*' theories, they may differ on the time taken per case and the quality of the outcomes. From the '*mission*' theories, they may differ on the characteristics of the clients that they see and the type of outcomes they report.

The four hypotheses I test are as follows:

i. Do the clients that NP providers serve have different characteristics in terms of ethnicity and disability?
ii. Do NP providers take longer per case than FP providers?
iii. Do NP providers report a higher quality of advice based on the performance measure for outcomes in the contract?
iv. Do NP providers differ in the types of outcomes they get for clients?

3.4 Data and Summary Statistics

3.4.1 Description of Data

This paper uses data obtained from a Freedom of Information request submitted to the Legal Services Commission, part of the Ministry of Justice, in 2011. The data contains a breakdown of all matters funded through the Legal Help scheme, over the period of 2009/10. Legal Help falls under the definition of '*controlled work*' and only covers basic levels of advice and

representation. It does not cover representation at tribunal or specialist advice (which is funded through Controlled Legal Representation (CLR)).

The dataset has a total of over 750,000 observations, grouped under 15 different categories of law. FPs deliver a larger share overall of these cases, 63 %, compared to 37% delivered by NPs. This does not represent unique clients for each law firm, but there is an indicator if the client has more than one case open. In total, there are 638,223 unique clients. The data does not have a provider identifier, so I am unable to say how many providers in total there are, but it does tell us if the provider was a non-profit organisation or a private solicitors practice.

Table 3.5 in the appendix, shows the numbers of cases in each of the 15 categories of social welfare law, and how these cases are distributed between NP and FP providers. Some types of advice are delivered almost exclusively by FP providers, for example, criminal law, medical negligence, consumer, family, mental health, personal injury, and public law. Some areas are delivered by both NP and FP, but the overall number of cases is small, for example, employment and education. In the rest of this paper, I focus on the four areas of advice which are delivered in a large number by both NP and FP providers – these are debt, housing, immigration, welfare benefits.

Within these four areas of advice, there is variation between how cases are distributed between NP and FP. The most even spread is housing, where the numbers for NP and FP are the most similar, 50087 and 52162 respectively. Immigration advice is more commonly delivered by FP providers compared to NPs. Debt and welfare benefits both have much larger numbers of cases delivered by NP providers. The difference is largest for debt with 88,175 delivered by NPs compared to 18,535 delivered by FPs.

3.4.2 Variables

The data contains information on the following variables:

Supplier type. The data reports if the provider is a firm of solicitors (all of which are FP), or if the provider is a NP organisation. As outlined in Section 1, NP organisations are not a homogenous group. They include the Citizen's Advice Bureaux, which provide generalist

advice usually delivered by non-lawyers, alongside organisations like Law Centres, Housing Aid Centres and Refugee Advocacy Groups or Organisations, who usually employ solicitors to deliver advice.

Category: There are 15 categories of social welfare law total, but there are some important differences in how these cases are distributed between FP and NP providers as outlined above. The data reports the overall category of law, for example, Housing, but I do not have any more detailed information on the specific type of case i.e.. whether a housing case relates to homelessness or disrepair. The summary statistics show the 4 categories of law that I look at in more detail in this report, the others are detailed in table 1 of the appendix.

Client ID: Each person in the data is identified by a unique client identity number. Clients can have multiple matters open at one time. This can be two matters in different categories of social welfare law (e.g. a housing and a debt case), or two matters of the same case type (subject to eligibility rules). Around 15% of all cases involve a client who has more than one matter start open.

Gender: There are more cases where women are the clients, compared to men. This is mainly driven by women being more likely to access advice for debt, housing and family cases. This pattern is reversed (10,430 compared to 20,800), in actions against the police and immigration cases, where men make up a larger share of the client base.

Ethnicity: Providers report the ethnicity of clients where this is known, although there are a reasonably large number of missing values (13,265, which is 2% of the total). Around two thirds (65%) of cases have clients identified as White British.

Disability: Providers are required to report whether the client has a disability, and these are split into eight categories; cognitive impairment, long standing illness or health condition, learning disability, mental health condition, physical impairment, sensory impairment, other disability, or no disability. The majority of cases are with clients with no reported disability (73%) which still leaves over 25% cases where the client reports some disability. Providers report only one disability code, even in cases where the client may have several different disabilities (e.g. sensory and physical impairment).

Time and Duration: Providers report how much time they spend in minutes on each case and the duration of the case in days between when the case was opened and when it closed. A key aim in developing the fixed fee scheme was to encourage providers to be more efficient and spend less time on each case.

Outcome Codes: On closing a case, providers must mark the outcome of the case. There are a number of specified outcome codes for each type of social welfare law (outcome codes for debt, welfare, housing and immigration are set out in the appendix). The challenges in measuring outcomes in legal aid were discussed in section 2.3.

Region: the data is disaggregated by regional LSC office. The categories used are largely historical and based on the location of the LSC regional.

There is wide variation between the regions, in terms of the number of providers, and also the provider type (non-profit compared to solicitors). The regions where the smallest proportion of cases were done by NPs were Cardiff, Leeds, London, Newcastle, Nottingham and Reading. In all of these regions, the majority of cases were delivered by FPs, with NPs delivering under 35% of cases. The region where the greatest proportion of cases were carried out by NPs was in Manchester, where 49% of cases were delivered by NP providers. Other regions that had a large share of cases done by NPs, were Birmingham, Brighton, Bristol and Cambridge, all of which had over 40% of cases done by NPs. In Chester, the smallest of all the regions, nearly all cases (97%) were delivered by NP providers.

Whilst the information above shows how many cases were opened by provider type in each area, it fails to provide the whole picture of how likely it is for someone to go to a non-profit provider. In each region, there will be providers who are operating without a contract and not funded by the LSC. Table 3.6 in the appendix, shows a list of how many providers in each region are operating without a contract.

Table 3-1. Summary Statistics

	% of total done by NP	% of NP cases	% of FP cases	Overall Freq.	% of all cases
Type of Case					
Debt	82.63	30.54	3.81	106710	13.76
Housing	48.99	17.35	10.72	102249	13.19
Immigration	42.64	18.01	14.38	121950	15.73
Welfare benefits	77.23	29.09	5.09	108776	14.03
Client Characteristics					
F-Female	35.22	51.42	56.12	421553	54.37
M-Male	39.58	48.29	43.75	352311	45.44
Disability Dummy = 1	57.28	34.89	15.44	175855	22.68
Ethnicity Dummy = 1	39.77	29.23	26.27	212252	27.38
Client has more than one case	43.99	18.53	8.79	121629	15.69
Region					
Birmingham	41.92	10.33	8.49	71138	9.18
Brighton	46.75	6.48	4.38	40059	5.17
Bristol	39.80	7.99	7.17	57973	7.48
Cambridge	43.72	8.84	6.76	58403	7.53
Cardiff	34.82	6.18	6.87	51268	6.61
Chester	96.87	0.62	0.01	1854	0.24
Leeds	29.87	7.41	10.32	71611	9.24
Liverpool	35.80	4.56	4.85	36764	4.74
London	32.75	20.13	24.53	177482	22.89
Manchester	48.52	13.67	8.61	81331	10.49
Newcastle	30.78	5.19	6.92	48652	6.28
Nottingham	32.60	5.42	6.65	47985	6.19
Reading	29.90	3.19	4.44	30808	3.97

Case and Client Details	NP Mean	FP Mean	Overall Mean
Duration (mean)	137.69	190.75	170.89
Time in minutes (mean)	217.95	231.22	226.26
Age (mean)	40.06	37.09	38.20

3.4.3 Estimation and Framework

The main methodology used in this paper is to compare NP and FP providers on the four areas set out above. The four research questions concern (i) the clients served by the provider; (ii) the time taken per case; (iii) the number of cases closing with an outcome that is defined as substantive benefit; and (iv) the number of cases closing with specific types of outcome codes.

For (i) the dependent variable is whether the case is delivered by a NP provider. In this case, the dependent variable is a binary variable that takes the value of 1 if the provider is NP. The following OLS regression was run, as well as a logit regression, where the coefficients reported are the marginal effects at the means. The results show the probability of a case being seen by a NP firm, when the client has a disability, or is from an ethnic minority background. The main estimating equation is of the following form, for client i in region j.

$$NP_{ij} = \alpha + \beta_1 DIS_i + \beta_2 UNKDIS_i + \sum_{n=1}^{4} \beta_3 ETH_i + \delta X_i + \eta Z_j + \varepsilon_{ij}$$

DIS_i is a dummy variable that takes the value of 1 if the client reports a disability and 0 if they do not.

$UNKDIS_i$ is a dummy variable that takes the value of 1 if the disability of the client is reported as unknown and 0 if the disability is known. There are 8 categories of disability that have been combined into this one dummy variable.

ETH_i is a vector of ethnicity dummy variables. These are 4 ethnicity dummy variables that have been collapsed from larger categories. All clients with a Black ethnicity e.g. Black African, Caribbean, Mixed have been combined to give one dummy variable. All clients with an Asian ethnicity (e.g. Indian, Pakistani, Bangladeshi, Chinese) have been combined into one dummy variable. All other ethnicities have been combined into a group 'other ethnicity'. The fourth ethnicity category is unknown ethnicity. The omitted variable is White ethnicity.

The reason why only one dummy variable category has been used for disability (alongside unknown disability) is because the overall direction of results, is the same for all of the disability categories, when they were included as separate dummy variables. This was not the case for ethnicity, where there were differences between different ethnicity categories.

X_i is a vector of client control variables which include the age and gender of the client,
Z_j is a vector of regional controls that include the region of the provider. London is the omitted region.

For (ii) the dependent variable is a continuous variable of the number of minutes taken per case. An OLS regression of the following form was run:

$$Y_{ij} = \alpha + NP_i + \beta_1 DIS_i + \beta_2 UNKDIS_i + \sum_{n=1}^{4} \beta_3 ETH_i + \delta X_i + \eta Z_j + \varepsilon_{ij}$$

All of the explanatory variables are the same as those set out in (i), with the only difference being that NP is now included, not as the dependent variable, but as an explanatory variable, for the behavioural outcome of the amount of time taken per case.

For (iii) the dependent variable is a binary outcome that takes a value of 0 or 1, if the case is closed with substantive benefit for the client. Some additional regressions are run with more specific outcome codes, with all the same control variables. The equation is the same as for (ii), with the only difference being that time per case is included, as an explanatory variable. When testing for the difference in outcomes, I control for the time spent per case, because I am not concerned with whether one provider type gets better outcomes because they spend longer; what is of relevance is if some other characteristics about the organisations lead to a difference in outcomes, conditional on the time spent per case.

3.5 Results

3.5.1 Do NPs have a different client base to FP providers?

Table 3.2 reports regression results with NP as the dependent variable. The results show the OLS regression results (similar results were obtained from a logit regression, these results are reported in appendix table 3.8). For this analysis, ethnicity has been collapsed into five categories: Black, Asian or Chinese, Other, White, and Ethnicity Unknown. In the regression, the omitted category is White, so results are relative to this omitted variable.

For disability, the 9 different disability categories have been collapsed into three dummy variables: having a disability, disability unknown, and no disability. I did also run regressions, with each of the different disability categories reported separately, but these are not included in the results table, because there were no substantive differences in how NPs and FPs took on cases across the disability types.

NPs are more likely to have clients who have a reported disability for all types of advice. The differences are large, and statistically significant for all types of advice. In each category, NPs have a higher number of clients with a reported disability. The coefficient is largest for Welfare cases, at 0.079 in the OLS, and 0.085 in the logit regression, but for all types of case the coefficient is highly statistically significant.

The results in table 3.2 show that that the likelihood that ethnic minorities visit a NP provider varies across ethnicity categories, and type of advice. NP providers are more likely to have clients, who are Black for debt advice only, with a coefficient that is positive and highly statistically significant ($P<0.001$). In contrast, for housing and immigration cases, it is negative, so NPs are less likely to have Black clients on for these cases.

In most cases, the numbers of clients reporting an Asian or Chinese ethnicity was not statistically significantly different from those who are White. NP providers were less likely to report having a client from an 'other' ethnic category, and the coefficients on this were large and all highly statistically significant. They were also much less likely to have cases where the ethnicity of the client was unknown.

For gender, there are three categories; female, male and unknown gender. There are two dummies in the regression (the omitted variable is male). On the female variable, none of the results are highly statistically significant, with the exception of immigration where NPs are more likely to have female clients.

For age, there are statistically significant differences that are similar in size and direction for all types of legal aid. In all cases, the coefficient is negative, with NPs less likely to take on clients with a higher age.

There is a lot of regional variation between NPs and FPs. In all of the regressions, the omitted region is London, so results are interpreted in comparison to this. For most of these case types, people are more likely to go to a NP than a FP, with the exception of debt advice in Cardiff; debt, welfare and immigration advice in Liverpool; and immigration advice in Newcastle, Nottingham and Reading.

Table 3-2. Regression results (OLS). Dependent variable: NP provider

	(1) DEBT OLS	(2) HOUSING OLS	(3) WELFARE OLS	(4) IMMIG OLS
Eth: Unknown	-0.243***	-0.169***	-0.046***	0.391***
	(0.007)	(0.007)	(0.006)	(0.007)
Eth: Black	0.017***	-0.016***	-0.030***	-0.097***
	(0.005)	(0.005)	(0.004)	(0.006)
Eth: Asian	-0.008	0.008	-0.003	-0.022***
	(0.005)	(0.006)	(0.004)	(0.006)
Eth: Other	-0.067***	-0.039***	-0.153***	0.064***
	(0.007)	(0.006)	(0.005)	(0.006)
Dis: Has disability	0.038***	0.076***	0.079***	0.029***
	(0.003)	(0.004)	(0.003)	(0.007)
Dis: Unknown	-0.310***	-0.238***	-0.311***	0.065***
	(0.005)	(0.005)	(0.005)	(0.003)
Gender: F	0.001	-0.006*	0.000	0.066***
	(0.002)	(0.003)	(0.002)	(0.003)
Gender: unknown	0.154***	0.173***	0.137***	0.148***
	(0.032)	(0.027)	(0.026)	(0.022)
Age	-0.003***	-0.006***	-0.003***	0.006***
	(0.000)	(0.001)	(0.000)	(0.001)
Age sq	0.000**	0.000***	0.000***	-0.000***
	(0.000)	(0.000)	(0.000)	(0.000)
Birmingham	0.149***	0.078***	0.116***	0.255***
	(0.005)	(0.006)	(0.005)	(0.004)
Brighton	0.112***	0.247***	0.167***	0.190***
	(0.006)	(0.006)	(0.006)	(0.008)
Bristol	0.143***	0.270***	0.171***	0.108***
	(0.005)	(0.006)	(0.005)	(0.010)
Cambridge	0.127***	0.265***	0.201***	0.501***
	(0.005)	(0.007)	(0.005)	(0.007)
Cardiff	-0.073***	0.298***	0.072***	0.066***
	(0.005)	(0.007)	(0.005)	(0.007)
Chester	0.207***	0.000	0.252***	0.000
	(0.012)	(.)	(0.015)	(.)
Leeds	0.008	0.099***	0.030***	0.209***

	(0.006)	(0.006)	(0.006)	(0.004)
Liverpool	-0.061***	0.110***	-0.242***	0.000
	(0.006)	(0.008)	(0.005)	(.)
Manch	0.076***	0.310***	0.146***	0.602***
	(0.005)	(0.006)	(0.004)	(0.005)
Newcastle	0.007	0.072***	0.091***	-0.262***
	(0.005)	(0.007)	(0.006)	(0.007)
Nott	0.114***	0.335***	0.206***	-0.028**
	(0.006)	(0.008)	(0.006)	(0.010)
Reading	0.021**	0.209***	0.231***	-0.250***
	(0.007)	(0.008)	(0.007)	(0.011)
_cons	0.871***	0.527***	0.759***	0.123***
	(0.011)	(0.013)	(0.011)	(0.011)
n	106,575	101,802	108,570	110,274

Dependent variable is dummy variable that takes a value of 1 if the provider is NP, 0 otherwise; Standard errors in parentheses; * p<0.05, ** p<0.01, *** p<0.001

3.5.2 Do non-profits take longer than FP providers to deliver cases?

Figure 3-1. Difference between NPs and FPs in time taken per case (minutes)

Figure 3-1 shows a summary of the time taken by NP and FP providers. There is a lot of variation between the different case types. For debt advice, NP providers take a lot longer than FP providers; the data from the regression results with controls estimates this as 40 minutes longer per case. This is large and is statistically significant. The regression results are shown in Table 3.3.

For housing cases, the mean time taken by NPs is less than that taken by FPs, although the number is very small at 8 minutes less. The median is the same. The regression results, which take into account all the control variables, gives a positive, yet still small, coefficient of 6 minutes. This is very small, but, is still statistically significant.

For welfare cases, like in housing cases, the mean for NPs is lower than FPs. The median, however, is larger for NPs. The regression results also give a negative coefficient with NPs taking 15 minutes less time, after taking into account, controls. This is statistically significant.

In the area of immigration law, the differences between NP and FP providers are largest. NPs take a lot less time than FPs per case. The mean time is 48 minutes less, and the coefficient

from the linear regression is 72 minutes less, the difference is large and is statistically significant.

The rest of the regression results are presented in Table 3.3. Cases where the client is Black or Asian, take statistically significantly longer in time, compared to White clients, although with the exception of immigration advice, these differences are small. Cases with 'other' ethnicity take less time for debt and housing cases, but longer with welfare cases. All disability cases take longer time, 15 minutes longer in debt cases, rising to over 30 minutes for both housing and welfare cases. Cases where the client is female take longer, 10 minutes longer in debt cases, and 4 minutes longer for housing and welfare cases.

Table 3-3. Regression results (OLS). Dependent variable: time taken per case.

	(1) DEBT OLS	(2) HOUSING OLS	(3) WELFARE OLS	(4) IMMIGRATION OLS
NP	40.13***	5.454***	-14.89***	-72.10***
	(1.017)	(1.027)	(1.073)	(2.121)
Eth:	0.751	9.982***	6.769**	115.5***
Unknown	(2.203)	(2.140)	(2.190)	(5.294)
Eth: Black	4.471**	12.07***	7.291***	65.18***
	(1.530)	(1.521)	(1.474)	(4.276)
Eth: Asian	10.08***	15.69***	16.24***	60.60***
	(1.762)	(2.118)	(1.475)	(4.521)
Eth: Other	-11.41***	-3.074	20.21***	53.40***
	(2.379)	(2.062)	(1.785)	(4.315)
Dis: Has	14.56***	31.65***	39.83***	26.09***
disability	(0.852)	(1.153)	(0.969)	(4.917)
Dis:	22.70***	27.16***	44.47***	4.654*
Unknown	(1.554)	(1.646)	(1.826)	(2.367)
Gender: F	10.76***	4.067***	4.314***	-12.78***
	(0.723)	(0.981)	(0.829)	(1.870)
Gender:	-60.16***	12.87	-43.19***	-52.52***
unknown	(10.54)	(8.828)	(9.032)	(15.39)
Age	2.141***	0.308	2.849***	-8.023***
	(0.153)	(0.189)	(0.167)	(0.364)
Age sq	-0.0195***	-0.00153	-0.0315***	0.0959***
	(0.00171)	(0.00217)	(0.00180)	(0.00452)
_cons	91.90***	184.0***	120.4***	498.6***
	(3.622)	(4.146)	(3.982)	(7.917)
N	106647	101986	108660	112336

Standard errors in parentheses; Regional controls also included.

* p<0.05, ** p<0.01, *** p<0.001

3.5.3 Do non-profits close more cases with substantive benefit to clients?

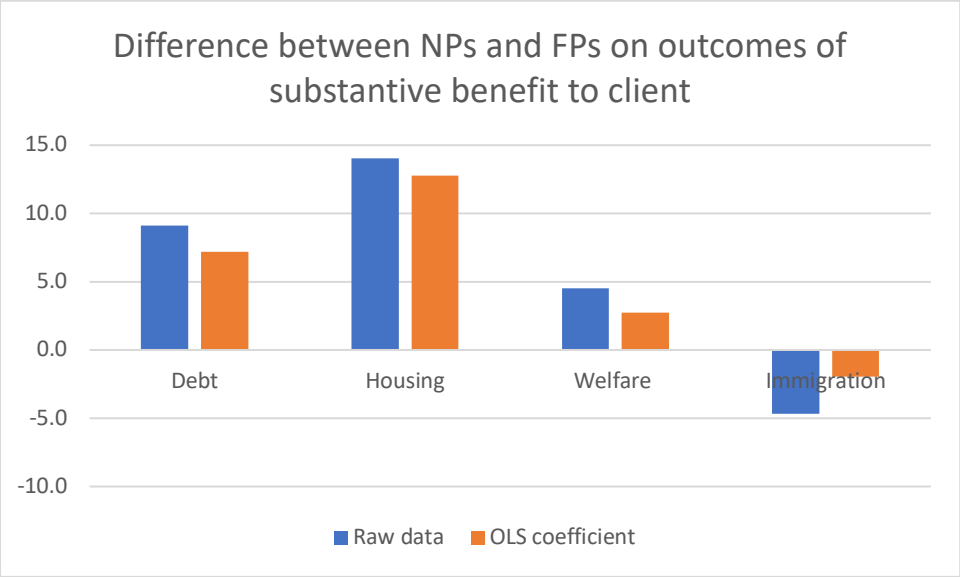

Figure 3-2: Outcomes closed of 'substantive benefit'. Difference between NPs and FPs.

Figure 3-2 shows a summary of the data on outcomes (and the regression results are shown in Table 3.4). The graph shows the percentage of cases that end with an outcome code, which the Legal Services Commission regard as being of "*substantive benefit*" to the client. The outcome codes that are included in this measure are slightly different for each area of social welfare law. Section 3.2.3 sets out a fuller explanation of how substantive benefit is measured and some of the limitations with its use as a performance measure.

The figure shows that for debt, housing and welfare cases, NP providers end a lot more cases with substantive benefit to the client. The columns on the left are the raw data without adding in any controls. The difference is largest in housing, where the difference is close to 15%. The difference is very small in welfare, only 4%. The pattern is reversed in immigration, where FPs report a larger share of cases closing with substantive benefit than NPs; 28% compared to 24%.

In the figure, the columns on the right show the results from the OLS regression, which has controls for client characteristics, region and the time taken. This reduces the differences between NPs and FPs slightly, but they are still large and all statistically significant. (Pr(|T| >

|t|) = 0.0000). Summary regression results are reported in 3.4, with the full regression results with regional control and logit regression also shown in the appendix in tables 3.9 and 3.10.

In terms of productivity, if we think of productivity as the outcomes achieved divided by the input (time per case) used to achieve them, for some types of advice NPs are more productive than FPs. NPs get better outcomes on housing and welfare cases, without taking more time per case so one could argue they are more 'productive' in these case areas. Although they get better outcomes in debt advice, they spend a lot longer per case. It is less clear in this instance if they are more productive than FPs, as it is hard to assess if the slightly better outcomes are justified by spending that much more time per case. In immigration, FPs do better, but spending a lot longer per case so, as in the case of debt, an interpretation on productivity is less clear. These issues are discussed in more detail in section 3.6.2.

There is variation between outcomes achieved for different ethnicities. Clients who are Black are less likely to get an outcome of substantive benefit in debt cases, and Asian clients are less likely to get an outcome of substantive benefit in all types of advice, apart from immigration.

Clients who report a mental health condition are less likely to get an outcome of substantive benefit in housing and immigration. In immigration, the coefficient is the largest and is statistically significant at the 1% level. Clients with a mental health disability are more likely to get a positive outcome in welfare cases. Women are also more likely to get an outcome that ends with substantive benefit for all types of advice.

Table 3-4. Regression results (OLS). Dependent variable: outcome of substantive benefit

	(1) DEBT OLS	(2) HOUSING OLS	(3) WELFARE OLS	(4) IMMIG OLS
NP	0.071***	0.127***	0.028***	-0.022***
	(0.004)	(0.003)	(0.004)	(0.003)
Eth: Unknown	-0.041***	-0.019**	-0.074***	-0.043***
	(0.008)	(0.006)	(0.007)	(0.008)
Eth: Black	-0.029***	-0.007	-0.008	-0.004
	(0.005)	(0.004)	(0.005)	(0.006)
Eth: Asian	-0.055***	-0.025***	-0.047***	0.042***
	(0.006)	(0.006)	(0.005)	(0.007)
Eth: Other	-0.012	0.006	-0.043***	-0.030***
	(0.008)	(0.006)	(0.006)	(0.006)
Dis: Has disability	0.009**	-0.015***	0.007*	-0.042***
	(0.003)	(0.003)	(0.003)	(0.007)
Dis: Unknown	-0.020***	-0.012*	-0.003	-0.059***
	(0.005)	(0.005)	(0.006)	(0.003)
Gender: F	0.014***	0.009**	0.007**	0.061***
	(0.003)	(0.003)	(0.003)	(0.003)
Gender: unknown	-0.046	0.012	0.042	0.025
	(0.036)	(0.026)	(0.030)	(0.022)
Age	0.001*	0.003***	-0.001	0.002***
	(0.001)	(0.001)	(0.001)	(0.001)
time (hours)	0.024***	0.001**	0.008***	0.018***
	(0.001)	(0.001)	(0.001)	(0.000)
Repeated Case	-0.017***	0.015***	0.009**	-0.068***
	(0.004)	(0.003)	(0.003)	(0.003)
_cons	0.610***	0.533***	0.692***	0.107***
	(0.013)	(0.012)	(0.013)	(0.012)
n	106,574	101,801	108570	108570

Dependent variable is a binary variable that takes the value of 1 if the case closes with the outcome code that the client is advised to plan better, 0 otherwise; Standard errors in parentheses; * p<0.05, ** p<0.01, *** p<0.001. Results including regional controls and Logit results reported in appendix table 3.9 and 3.10.

Table 3-5. Regression results (OLS). Dependent variable 'plan better'.

	(1) DEBT OLS	(2) HOUSING OLS	(3) WELFARE OLS
NP	-0.030***	0.109***	-0.034***
	(0.004)	(0.003)	(0.003)
Eth: Unknown	0.016	-0.001	-0.048***
	(0.008)	(0.006)	(0.007)
Eth: Black	0.007	-0.011*	-0.022***
	(0.006)	(0.004)	(0.005)
Eth: Asian	0.007	0.015*	-0.038***
	(0.007)	(0.006)	(0.005)
Eth: Other	0.108***	0.071***	0.030***
	(0.009)	(0.006)	(0.006)
Dis: Has disability	-0.008*	-0.021***	-0.081***
	(0.003)	(0.003)	(0.003)
Dis: Unknown	0.010	-0.015**	-0.006
	(0.006)	(0.005)	(0.006)
Gender: F	-0.013***	-0.014***	0.003
	(0.003)	(0.003)	(0.003)
Gender: unknown	0.085*	0.014	0.084**
	(0.039)	(0.026)	(0.028)
Age	0.001	-0.002***	0.002**
	(0.001)	(0.001)	(0.001)
time (hours)	-0.027***	-0.028***	-0.029***
	(0.001)	(0.001)	(0.001)
Repeated Case	0.018***	0.013***	0.012***
	(0.004)	(0.003)	(0.003)
_cons	0.413***	0.416***	0.450***
	(0.014)	(0.012)	(0.013)
n	106,574	101,801	108570

Dependent variable is a binary variable that takes the value of 1 if the case closes with the outcome code that the client is advised to plan better, 0 otherwise; Standard errors in parentheses; Regional controls also included; * p<0.05, ** p<0.01, *** p<0.001

3.5.4 Do NPs get different types of outcomes for clients?

In the previous section, NPs and FPs get similar overall results in housing and welfare. In debt, NPs get better outcomes overall, and in immigration, FPs do better. The definition of positive outcomes used in the previous section is very broad and in this section I look in more detail at the specific outcomes that NP providers are achieving compared to FPs.

I start with the outcome code '*plan better*'. In section 3.2.3, I set out how this has been described as less 'tangible' than some of the other outcome codes (Balmer *et al.* 2012). In the Legal Aid Handbook, produced by the Legal Action Group, they advise providers that, where justified by the case, they should always select the '*plan better*' outcome rather than an outcome such as '*client ceased to give instructions*' (Ling and Pugh 2011).

Since the outcome code '*plan better*' is similar, in some respects, to some of the outcomes that are not considered '*substantive benefit*', if providers report a large number of cases closing of this type, this will not necessarily reflect high quality advice. The '*plan better*' outcome is included in the definition of substantive benefit for debt, housing and welfare advice, but cannot be reported for immigration advice.

Table 3.5 reports regression results with this variable as the dependent variable. This shows the OLS regression, similar results were obtained from a logit regression (the results for this are shown in appendix table 3.10 where regional controls are also shown). The rationale for including this as the dependent variable is it is an indicator for the amount of cases that are closed with the least tangible outcome code so it could be seen as a measure of 'gameability' and to see the proportion of each providers caseload that they close with this outcome.

It is useful to compare the results of Table 3.4 alongside Table 3.5 to see if providers which seem to get a lot of cases closing with substantive benefit are only doing so because they report *'plan better'* often. The biggest difference in '*plan better*' is in housing. Here, NPs report this outcome code more often than FPs, with a coefficient of 0.11 in the OLS and logit regressions. This is a large and significant difference. If this outcome code is excluded from the definition of '*substantive benefit'*, then the difference between NPs and FPs that get an outcome of substantive benefit narrows significantly.

Looking in more detail at the housing outcomes, in table 3.13 in the appendix, NPs close a very large share of cases with the outcome code '*plan better*' at 35%. The other stand out features from table A5b is that NPs close a lot more cases with the outcome code '*client housed, re-housed or retains home*'. Although it is difficult to put these outcomes into a hierarchy, for cases involving homelessness, one could argue that preventing homelessness is the best outcome for clients.

I cannot conclusively say this makes NPs better, because this outcome is only available for clients who are at risk of homelessness, and they may have taken on a bigger share of this type of case. If this is the reason, i.e. a selection effect, it is still the case that people, who are at imminent risk of homelessness, choose to go to a NP provider rather than a FP private solicitor.

In debt, NPs are less likely to report '*plan better*' than FP. Since NPs already reported better outcomes if '*plan better*' is excluded from the analysis, the difference widens even more. However, looking in more detail at the outcomes that NPs report for debt, there are some important differences to those that FPs report. NPs end a lot more cases with affordable repayment plans. They very rarely end cases with the debt being reduced or written off. Although the overall numbers of these cases are small, FPs do over double the amount of cases where they debt is written off, compared to NPs, even though NP providers do nearly 5 times as many debt cases as FPs. NPs are also more likely to apply for a bankruptcy order than FPs are.

In Welfare, NPs are less likely to report the outcome '*plan better*' than FPs although the size of the coefficient is small (-0.035 for the OLS). The welfare outcomes reported are similar for NPs and FPs, although NPs get more outcomes of '*substantive benefit*' overall, largely driven by conducting more cases, in which the client receives or retains a payment.

Immigration is the only area where NPs do worse on the measure '*substantive benefit*'. Looking at the outcome codes in table 3.15, there are several differences in the performance of NPs and FPs. NPs have over double the proportion of cases that end with the outcome, (that is not of substantive benefit) that the '*client is advised and taking action themselves*' – over 20% of NP cases end with this outcome. This, like '*plan better*', is a very vague outcome code, and there is no information available to show if they went on to be successful in '*taking action themselves*'.

In immigration, NPs also have fewer cases closing with the outcome codes IA and IB, i.e. where the client is granted permission to enter, or humanitarian protection. FP providers report these outcomes much more often than NP providers. A regression with IA where the person is granted leave to enter or remain permanently, as the dependent variable, has a negative and statistically significant value on the NP coefficient (-0.022).

Although NP providers report less cases of substantive benefit, they also report less cases that close with the outcome IE, which is where the application was refused. This clouds the picture as to whether NP providers do better or worse in the provision of immigration advice, because, although they report less cases with the positive outcome codes IA to ID, they also report less cases with this negative outcome code. In numbers, NPs have 4322 cases, ending with the application being refused, whilst FPs have 7591. Although FPs undertake more immigration cases, this does not account for this large difference.

FP providers may get more clients with applications refused, because they are more willing to take on cases where a positive outcome is less likely. Nonetheless, the large differences between the provider types indicates that a person's decision of whether they are allowed to remain in the UK, could be adversely affected by which type of provider they instruct or seek advice and representation from.

3.6 Discussion of findings

3.6.1 Client profiles of different provider types

The difference between the types of clients that FPs and NPs serve, could be evidence of selection. This could be in one of two ways; first, that providers select particular clients, or, second, the clients select particular types of firms.

Selection of clients by providers

Selection of clients could work in one of two different ways. Providers may attempt to take on cases that are easier, or will take less time in a way, in an attempt to game the contract, which may also involve turning away clients who they think will be harder to profit from. In contrast,

providers (or staff that work in them) may do the exact opposite and take on what they think are the more challenging or difficult cases, or work with the most disadvantaged clients, if this is in keeping with their mission. It is also possible that they may pursue a mix of these strategies, selecting some easier cases, so that they can redistribute any time saved towards those cases that are more challenging and time consuming. Heckman *et al.* (1996) proposed that this is a strategy that bureaucrats in a job training programme may have adopted, and it is also a consistent strategy with a firm balancing '*revenue*' and '*mission*' in the way that Weisbrod (2004) suggested they might.

The first type of selection, where providers directly select clients, is not allowed in most cases. The Unified Contract (and the law) is clear that discriminating against clients on the basis of disability, race, or gender is prohibited. The Unified Contract published by the Legal Services Commission (2008) states that:

'*providers must not decline work because a potential clients disability, age or ethnic groups will or may result in additional costs or disbursements being incurred compared to clients without that disability, age or from a different ethnic origin*'.

However, providers do have permission to manage their mix of cases. The Unified Contract goes on to advise providers that they can manage their case load with the following statement;

'*you should not specifically target certain sorts of clients or types of work in order to have the effect of maximizing cases of lower complexity. However … you may change your case mix within a category of law by accepting a broader range of cases, reflecting the type of cases arising locally in this category of Law, than previously*'.

As providers are able to turn clients away, with the justification that they need to balance the number of matters starts they take on, this could open the door for gaming. The results on time per case found that clients with a disability take longer than those without. Clients may be turned away, with the justification that it is because of case load constraints, and so, consequently, there may be particular groups of clients who are systematically turned away by different providers. The fact that the LSC have so explicitly stated that providers cannot target easier cases shows they that are concerned that providers may do this.

It is difficult to gather evidence that monitors whether people are being turned away, and also to establish this is due to selection, rather than overcapacity. Moorhead *et al.* (2003) conducted an experiment where they used '*model clients*' who had to try to book and attend appointments at two types of provider (lawyer verses non-lawyer) in legal aid. In practice, this has some parallels between non-profit and for-profit firms, as non-lawyer firms are often, but not always, non-profit. They found non-lawyer firms were more likely to have some access problems. Although, overall, the problems were less serious than with private solicitor firms. So, whilst many people who tried to access a non-lawyer firms were delayed in some way (42% of visits) all those who tried, were able to see an adviser. However, in some cases '*only after considerable persistence on the part of the model client*.' With private solicitors, although problems occurred in less of the visits (only 15%), in some of these, access was denied totally (rather than just delayed). This could be interpreted as non-lawyer firms being ineffective, or it could be a screening device to identify those clients, who are more willing to wait, and, therefore, targeting a rationed service on the clients most in need of support.

Selection of providers by clients

One of the assumptions in the increasing use of competition in the public sector, is that users can choose the type of service that best suits them. This assumes that they have clear preferences between different providers, and are able to make informed choices. In legal aid, this assumption may not hold since 'the decision to seek advice and the choice of provider is far from obvious' (Patel et al., 2008).

Many people have a lack of knowledge about the advice services that are available to them, or even that they are able to get any sort of help. Research by Balmer *et al*. (2010) found that people who were more affluent and educated were more likely to be aware of their legal rights. They found that people, who reported having mental health problems, were less likely to be aware of their legal rights. They found that knowledge of rights affected which type of provider they accessed. Respondents who did not know their rights were less likely to access solicitors firms, and people who did not know their rights were more likely to access a CAB.

Patel *et al.* (2008) also found there was a lack of legal knowledge among survey respondents. They found only 65% of people who had an advisor located within two miles of their home were able to identify this fact. The exception seems to be with the CAB who were very well

recognised. Many people thought that they lived near a CAB, even when this was not the case. Patel *et al.* (2008) suggest that this may indicate a degree of brand recognition, leading to an assumption such a service exists everywhere.

On the one hand, NPs, may be providing a valuable and important service, if they are able to give advice to people, who were not aware of their rights and would not have accessed a service at all, had they not come across the NP provider in an outreach location. In this sense, they may have a role that Grabowski and Hirth (2003) identify in medical care, where they allow poorly informed consumers to use NP status, as a signal of quality, whereas better informed consumers can sort into the FP market. Challenges are raised, however, if the advice is different in substance to that which they would have got if they had gone to a FP solicitors firm. There are some equity concerns in that if going to a local provider means a person is less likely to get a debt written off, or obtain a grant of leave to remain in an immigration claim than if they went to a FP solicitor. Very little is known about the preferences of people, and whether they are proactively choosing a NP firm, or if they are just going to the only place they have heard of. This does somewhat violate one of the assumptions at the heart of the White Paper, which is that people are offered choice or are choosing the type of provider that will give them the best service.

In practice, it seems more likely, that rather than FP providers deliberately selecting clients who do not have a disability, it is more to do with the process of NPs operating in ways, which makes it more likely that people with a disability select them. The location of NP advice services, the fact they are often located in more deprived communities, and offer services in outreach locations such as GPs surgeries, is likely to be one of the reasons for more people with a disability using their services.

NP providers are also more likely to have a more diverse workforce, although it is unclear if this has any impact on how clients make decisions about which type of firm to go to. The Legal Services Research Centre (2009; 2011) used to carry out routine monitoring of the supplier base. The 2009 report found that NP providers had a slightly higher proportion of firms with BME managerial control (16%) compared to FPs (11%). For NPs, this represented an increase compared to previous years, but for FP solicitors firms this was a decrease. This may reflect the concerns set out above that a large number of private solicitors firms were exiting the marketplace, and many of these will be firms with high proportion of BME staff.

The 2011 survey found that FP solicitor's offices were less likely to have BME solicitor fee earners (58% of private solicitors office contained no BME paid staff compared to 45.8% of NPs). There was a similar pattern with disability, with only 5.2% of FP solicitors having one of more disabled fee earner compared to 21.2% of NPs. In addition, 31.7% of NPs had at least one or more long-term ill or disabled volunteer. It may be the case that this affects the selection decisions of clients, who may, consciously or otherwise, end up selecting a provider where staff share their demographics.

In terms of ethnicity, NP providers have fewer cases with people from an ethnic minority than FP providers, although they employ more BME fee earners compared to FPs. One of the major concerns about the reforms to legal aid, was the impact on BME firms and clients. A report by the House of Commons Constitutional Affairs Committee (2007) dedicated a chapter to this issue and argued that the reform proposals would affect BME-controlled legal aid providers, more significantly than other providers. This report cited evidence that there appears to be a strong relationship between the ethnicity of managerial control and client ethnicity, with 30.1% of civil BME clients being aided by BME majority managed provider, and 93.3% of White British clients being assisted by White British managed providers.

It is not clear if the reason for these correlations is because BME clients seek out firms managed by BME staff, or if it is because of other variables, such as the geographical locations of different firms (Grindley, 2006). There are more BME run firms and also clients in large urban centres, so it may be that BME clients are going to their nearest provider, not selecting the provider based on the ethnicity of their staff. This certainly seems to be the case with Housing. In Chapter 3, I look at when adding in a control for the urban classification of the provider eliminates the difference between NP and FP providers of housing advice, but this issue warrants more investigation to see if the same holds for other advice areas.

3.6.2 Time and quality of different provider types

The result that NP providers do not take longer for most types of advice is surprising and does not seem to fit with the '*incomplete contracts*' theory that FPs have a stronger incentive to cut

costs and increase profitability. NPs do take longer to deliver debt advice, but they take a lot less time to deliver immigration advice; the difference is very large. It is also interesting because, in the period prior to the reform, it was observed that NPs take a lot longer than FPs (Lord Carter, 2006) in welfare and it was thought that this could be to do with something distinctive about NP providers. The fact that such changes were eliminated with the contract changes, suggests it was more to do with the funding structure, than anything about the organisational form.

It is possible that providers do not reliably report the true time spent per case and this may differ between provider types. A report published by the Ministry of Justice (2009) found that some advisers, in both Law Centres and Citizens Advice Bureaux, did not feel like it was worth recording the accurate time spent per case since, unless it reached the exceptional threshold, it would only be paid at the fixed fee. Both these providers are NPs, this may indicate that the amount of time they report spending does not fully reflect the full costs to the organisations of these cases.

Time, by itself, as a measure is not an ambiguously good or bad indicator. If providers are able to reduce the amount of time on a case, but get better outcomes, then it could be considered good to reduce time per case. However, if time is short and outcomes are bad, as seems to the case with how NPs deliver immigration advice, then, this is a cause for concern.

In debt, NP providers spend longer per case, but they do also get better outcomes on aggregate than FPs. In the field of legal aid, some have argued that in most cases spending more time on a case, is necessary, for delivering quality advice (see Social Action 2009 and Trude and Gibbs 2010). This can end up being better value for money, because it means the adviser will be able to spend more time gathering accurate information, and, therefore, get a better result. Social Action (2009) also argue that some users have a preference for advisers who are able to take the time to listen and explain, and also show empathy and sympathy.

Although NPs get better overall outcomes for debt advice, the differences in the type of outcomes they achieve for clients, highlights some distinctions between the two providers. The lower number of cases closed by NPs with the debt being reduced or written off is consistent with research by Moorhead *et al.* (2003), that non-lawyer firms are more likely to take an approach, such as helping clients manage debt, rather than take a more adversarial approach

and attempt to get that debt written off. Most people would consider that getting a debt written off or reduced is preferable for a client, compared to arranging to repay that debt.

Moorhead *et al*. (2003) suggest that firms may be less likely to take on these adversarial cases, because of either their lack of expertise or tighter controls on the legal aid cost they can incur under contracts. Debt advice is an area largely dominated by Citizen's Advice Bureau. Hynes (2012) cites an interview with an experienced member of CAB staff, who said that a frequent problem with training volunteer and paid advisers in their Bureau, was that they sometimes did not advise clients on a legal solution. Hynes (2012) argues that '*this can mean that clients are let down if they are not referred to a service that provides litigation in court*'.

In housing and welfare, NPs get unambiguously better outcomes than FPs. Unlike in debt, where NPs achieved fewer of the outcomes that were better, such as getting a debt written off, in housing NPs get a higher proportion of the most tangible outcomes, where the client is either housed or retains their home. In welfare, NPs also get a large number of cases ending where the client receives some kind of payment. This is consistent with the work by Moorhead *et al*. (2003) who found that welfare cases were different to debt cases, because non-lawyer agencies were more likely to take on adversarial cases and challenge a benefits decision in comparison to FPs (56% compared to 28% of solicitors). In welfare and housing, NPs get better outcomes and they also take the same or less time than their FP counterparts. For these cases it is easier to make the case that they can be considered more 'productive' than NP providers.

The picture is completely different in immigration, where NP advisers spend a lot less time, and get worse outcomes than FPs. The link between the amount of time spent per case in immigration, is consistent with research on asylum cases, where a greater time spent on the case, led to both higher quality outcomes for clients and better value in the longer term because there were fewer (costly) appeals (Trude and Gibbs 2010). For these cases it is clear that NP providers are lower quality, but harder to make claims about productivity. FP firms are higher quality but take a lot longer time to achieve these better outcomes.

The reason for these different outcomes across areas could be due to the different specialisms of the different firms. NP providers were often set up with a mission of helping people with problems in debt, housing and welfare. In contrast, FP firms would be more likely to talk on work that complements their private practice. FP firms would also have a portfolio of private

immigration cases and so may have more experience and expertise on these type of cases. It is also possible that some NP firms may not be accredited to the same level of work in immigration advice and may not be permitted to appeal cases where a person's application was refused.

One of the other surprising features about immigration cases, is that NPs are less likely to refer cases on, or proceed the matter under further funding compared to FPs. If they have a lack of expertise in an area, this can be mitigated by better cross working between providers, who can focus on the cases where they have a specialism. It had been a major focus of previous policy around legal aid for providers to work within networks, and there is a question whether competitive tendering has threatened this.

It is important to reiterate that all the analysis on outcomes is on those aspects of the service that can be given an outcomes code and measured in the contract. I have no information about the longer-term outcomes of the advice. In addition, as outlined in Section 3.3, many NP organisations are engaged in a wide range of other activities, such as policy work, public legal education and campaigns, and I do not consider the outcomes from any of this work in this study. It could even be consistent with the '*mission*' model of service delivery that a NP provider may end up putting less effort or resources into the work funded through these contracts in order to do other activities that are core to their mission or take on clients not eligible for legal aid.

3.7 Conclusions

In this paper I find that NPs have a number of distinctive features in comparison to FP firms. The first is that they serve a different base, and consistent with theories that they have a distinct '*mission*' to deliver in more community settings, they have more clients with a reported disability. They have less clients from BME backgrounds, but this difference is explained by their location in more rural areas than FPs who are located in more urban areas.

I do not find consistent support for the theory that NPs are higher quality. In welfare and housing, they arrive at better outcomes, and contrary to predictions, take around the same time

to finish cases. In debt, they take longer, and although they get better outcomes on aggregate, this hides substantial differences within the cases. In immigration, they spend a lot less time per case than FPs, and close less cases with positive outcomes for clients.

The finding that NPs do not spend more time than FPs overall is important, because prior to the fixed fee system being introduced, they did spend longer. This was seen as a distinctive feature of their service and could have indicated higher quality. As this reduced when the funding was brought into line with FPs, it suggests the difference was driven by the more generous funding mechanism NPs had available to them, rather than anything distinctive about the organisational form.

In this study, it seems to be the case that NPs have a similar role, as described by Grabowski and Hirth (2003), where they are located in areas, in which they serve more disadvantaged clients. It does raise concerns that in some areas of advice, the quality or type of advice, is different to FP solicitors and a better situation would be if more collaboration between providers was encouraged. It is not clear that clients are making choices about where to get advice in the informed way that the aspirations of the Open Public Services White Paper (HM Government 2011) set out. Many people are not aware they could go to a private solicitors and will often go to a NP organisation, because they are the only provider they are aware of (Patel *et al.* 2008). If they had more information, for example, that their debts may be more likely to be written off if they went to a FP firm, they may make different choices. There may also be some wider reaching positive spillovers from FP delivery of legal aid, in that, if they are more likely to successfully challenge debts, they may provide discouragement to the sort of predatory lending practices that are widespread today.

The research also raises some concerns about the use of volunteers. It is generally assumed that it is a benefit if NP organisations can use donated labour and volunteers to deliver the service. This may reduce quality if the volunteers are not as skilled or have a different skill set to a solicitor. It is also a distinction that may narrow over time, as there has also been a growth in non-lawyer services in the private sector as well (Hynes and Robbins 2009), with some solicitors well known for making greater use of non-solicitor staff, for example, using a large number of paralegals supervised by solicitors. There is currently a major drive to encourage more firms who are partly or wholly owned or controlled by non-lawyers to provide legal

services (Ministry of Justice 2016) which has been motivated by a policy drive to make markets more competitive (HM Treasury 2015).

3.8 Appendix to chapter 3

Table 3-6. All categories of legal aid by provider type

Case Type	% of total done by NP	% of NP cases	% of FP cases	Overall Freq.	% of all cases
Against the police	0.17	0.00	0.86	4215	0.54
Clinical negligence	0.00	0.00	1	3202	0
Community care	25.78	0.63	1	7016	1
Consumer	9.47	0.10	1	3041	0
Debt	82.63	30.54	4	106710	14
Education	34.92	0.20	0	1681	0
Employment	60.39	3.10	1	14808	2
Family	0.98	0.87	52	256506	33
Housing	48.99	17.35	11	102249	13
Immigration	42.64	18.01	14	121950	16
Mental health	0.46	0.06	8	37716	5
Miscellaneous	3.22	0.05	1	4165	1
Personal injury	0.35	0.00	0	1697	0
Public law	1.38	0.01	0	1596	0
Welfare benefits	77.23	29.09	5	108776	14
Total		100.00	100	775328	100

Table 3-7. Legal aid providers by region, including those no contract

	Non-Profit			**For Profit**			**Total**	**% NP**
Region	No Contract	Contract	Total NP	No Contract	Contract	Total FP	**Providers**	
Birmingham	163	35	198	16	382	398	596	33
Brighton	151	36	187	27	286	313	500	37
Bristol	227	54	281	24	366	390	671	42
Cambridge	161	41	202	25	320	345	547	37
Cardiff	126	33	159	5	278	283	442	36
Leeds	217	52	269	18	393	411	680	40
Liverpool	38	24	62	8	89	97	159	39
London	340	83	421	62	839	901	1322	32
Manchester	169	59	228	4	469	473	701	33
Newcastle	69	26	95	10	235	245	340	28
Nottingham	163	24	187	14	224	238	425	44
Reading	103	17	120	7	160	167	287	42
Total	1,927	484	2,409	220	4041	4261	6670	36

Table 3-8. Regression results (LOGIT). Dependent variable: NP provider.

	(1) DEBT LOGIT	(2) HOUSING LOGIT	(3) WELFARE LOGIT	(4) IMMIG LOGIT
Eth: Unknown	-0.156***	-0.248***	-0.035***	0.548***
	(0.005)	(0.009)	(0.006)	(0.011)
Eth: Black	0.015**	-0.009	-0.032***	-0.135***
	(0.005)	(0.005)	(0.004)	(0.009)
Eth: Asian	-0.009	0.016*	-0.009*	-0.035***
	(0.005)	(0.007)	(0.004)	(0.009)
Eth: Other	-0.049***	-0.038***	-0.121***	0.075***
	(0.006)	(0.007)	(0.005)	(0.009)
Dis: Has disability	0.040***	0.084***	0.085***	0.036***
	(0.003)	(0.004)	(0.003)	(0.010)
Dis: Unknown	-0.194***	-0.305***	-0.219***	0.067***
	(0.004)	(0.006)	(0.005)	(0.005)
Gender: F	0.001	-0.007*	0.000	0.090***
	(0.002)	(0.004)	(0.002)	(0.004)
Gender: unknown	0.161***	0.230***	0.132***	0.201***
	(0.040)	(0.034)	(0.027)	(0.030)
Age	-0.003***	-0.006***	-0.004***	0.008***
	(0.000)	(0.001)	(0.001)	(0.001)
Age sq	0.000***	0.000***	0.000***	-0.000***
	(0.000)	(0.000)	(0.000)	(0.000)
Birmingham	0.161***	0.091***	0.098***	0.292***
	(0.005)	(0.007)	(0.005)	(0.006)
Brighton	0.106***	0.273***	0.169***	0.225***
	(0.006)	(0.007)	(0.008)	(0.013)
Bristol	0.148***	0.306***	0.176***	0.141***
	(0.005)	(0.007)	(0.006)	(0.013)
Cambridge	0.128***	0.297***	0.216***	0.849***
	(0.005)	(0.008)	(0.007)	(0.017)
Cardiff	-0.051***	0.339***	0.052***	0.085***
	(0.005)	(0.008)	(0.005)	(0.008)
Chester	0.456***	0.000	0.811***	0.000
	(0.049)	(.)	(0.146)	(.)

Leeds	0.003	0.117***	0.013*	0.245***
	(0.005)	(0.007)	(0.005)	(0.005)
Liverpool	-0.047***	0.130***	-0.184***	0.000
	(0.005)	(0.009)	(0.004)	(.)
Manch	0.062***	0.355***	0.135***	0.780***
	(0.004)	(0.007)	(0.005)	(0.010)
Newcastle	0.003	0.092***	0.069***	-0.550***
	(0.005)	(0.008)	(0.006)	(0.018)
Nott	0.108***	0.397***	0.249***	-0.028*
	(0.006)	(0.010)	(0.009)	(0.014)
Reading	0.014*	0.236***	0.290***	-0.593***
	(0.006)	(0.009)	(0.011)	(0.029)
n	106,575	101,802	108,570	110,274

Dependent variable is dummy variable that takes a value of 1 if the provider is NP, 0 otherwise; the results show logit regressions with the margins at the means. Standard errors in parentheses
* p<0.05, ** p<0.01, *** p<0.001

Table 3-9. Regression results for debt and housing (LOGIT). Dependent variable: outcome

	DEBT		HOUSING	
	(1) OLS	(2) LOGIT	(3) OLS	(4) LOGIT
NP	0.071***	0.058***	0.127***	0.130***
	(0.004)	(0.003)	(0.003)	(0.003)
Eth: Unknown	-0.041***	-0.035***	-0.019**	-0.018**
	(0.008)	(0.007)	(0.006)	(0.006)
Eth: Black	-0.029***	-0.028***	-0.007	-0.007
	(0.005)	(0.005)	(0.004)	(0.004)
Eth: Asian	-0.055***	-0.051***	-0.025***	-0.024***
	(0.006)	(0.006)	(0.006)	(0.006)
Eth: Other	-0.012	-0.011	0.006	0.005
	(0.008)	(0.008)	(0.006)	(0.006)
Dis: Has disability	0.009**	0.009**	-0.015***	-0.016***
	(0.003)	(0.003)	(0.003)	(0.003)
Dis: Unknown	-0.020***	-0.020***	-0.012*	-0.011*
	(0.005)	(0.005)	(0.005)	(0.005)
Gender: F	0.014***	0.013***	0.009**	0.009**
	(0.003)	(0.002)	(0.003)	(0.003)
Gender: unknown	-0.046	-0.032	0.012	0.010
	(0.036)	(0.033)	(0.026)	(0.026)
Age	0.001*	0.001	0.003***	0.003***
	(0.001)	(0.001)	(0.001)	(0.001)
Age sq	0.000	0.000	-0.000***	-0.000***
	(0.000)	(0.000)	(0.000)	(0.000)
Birmingham	-0.032***	-0.033***	0.087***	0.083***
	(0.006)	(0.005)	(0.006)	(0.006)
Brighton	-0.022**	-0.022**	0.083***	0.081***
	(0.007)	(0.007)	(0.006)	(0.006)
Bristol	0.009	0.011	0.098***	0.098***
	(0.006)	(0.006)	(0.006)	(0.006)
Cambridge	-0.068***	-0.062***	-0.031***	-0.033***
	(0.006)	(0.006)	(0.007)	(0.006)
Cardiff	-0.021***	-0.019**	0.050***	0.044***
	(0.006)	(0.006)	(0.006)	(0.007)
Leeds	0.016*	0.018**	0.099***	0.097***
	(0.007)	(0.007)	(0.006)	(0.006)
Liverpool	-0.054***	-0.051***	0.060***	0.056***
	(0.007)	(0.006)	(0.007)	(0.007)

Manch	-0.015**	-0.014**	0.060***	0.056***
	(0.006)	(0.005)	(0.005)	(0.006)
Newcastle	0.008	0.010	0.127***	0.129***
	(0.006)	(0.006)	(0.007)	(0.008)
Nott	0.002	0.005	0.101***	0.102***
	(0.006)	(0.007)	(0.007)	(0.008)
Reading	-0.003	-0.003	0.106***	0.106***
	(0.008)	(0.008)	(0.008)	(0.008)
time (hours)	0.024***	0.029***	0.001**	0.002**
	(0.001)	(0.001)	(0.001)	(0.001)
Repeat Case	-0.017***	-0.015***	0.015***	0.016***
	(0.004)	(0.003)	(0.003)	(0.004)
_cons	0.610***		0.533***	
	(0.013)		(0.012)	
n	106,574	106,574	101,801	101,801

Dependent variable is the outcome, which is a binary variable that takes the value of 1 if the case closes with an outcome of substantive benefit to the client. Columns (1) and (3) reports OLS coefficients and columns (2) and (4) reports the margins at the means after a Logit regression. Standard errors in parentheses * p<0.05, ** p<0.01, *** p<0.001

Table 3-10 Regression results for welfare and immigration (LOGIT). Dependent variable: outcome

	(1) WELFARE OLS	(2) WELFARE LOGIT	(3) IMMIG OLS	(4) IMMIG LOGIT
NP	0.028***	0.027***	-0.022***	-0.020***
	(0.004)	(0.003)	(0.003)	(0.003)
Eth: Unknown	-0.074***	-0.070***	-0.043***	-0.058***
	(0.007)	(0.007)	(0.008)	(0.008)
Eth: Black	-0.008	-0.008	-0.004	-0.005
	(0.005)	(0.005)	(0.006)	(0.006)
Eth: Asian	-0.047***	-0.046***	0.042***	0.038***
	(0.005)	(0.005)	(0.007)	(0.007)
Eth: Other	-0.043***	-0.042***	-0.030***	-0.032***
	(0.006)	(0.006)	(0.006)	(0.006)
Dis: Has disability	0.007*	0.007*	-0.042***	-0.043***
	(0.003)	(0.003)	(0.007)	(0.007)
Dis: Unknown	-0.003	-0.003	-0.059***	-0.063***
	(0.006)	(0.006)	(0.003)	(0.004)
Gender: F	0.007**	0.007**	0.061***	0.062***
	(0.003)	(0.003)	(0.003)	(0.003)
Gender: unknown	0.042	0.041	0.025	0.023
	(0.030)	(0.030)	(0.022)	(0.024)
Age	-0.001	-0.001*	0.002***	0.003***
	(0.001)	(0.001)	(0.001)	(0.001)
Age sq	0.000***	0.000***	-0.000	-0.000
	(0.000)	(0.000)	(0.000)	(0.000)
Birmingham	-0.073***	-0.070***	0.083***	0.080***
	(0.005)	(0.005)	(0.005)	(0.004)
Brighton	-0.008	-0.007	0.040***	0.043***
	(0.007)	(0.008)	(0.008)	(0.009)
Bristol	0.027***	0.032***	0.037***	0.036***
	(0.006)	(0.007)	(0.011)	(0.010)
Cambridge	-0.011	-0.011	0.023***	0.022**
	(0.006)	(0.006)	(0.007)	(0.008)
Cardiff	-0.046***	-0.045***	-0.023***	-0.026***
	(0.006)	(0.006)	(0.007)	(0.007)
Leeds	0.025***	0.029***	-0.011*	-0.011*
	(0.007)	(0.007)	(0.004)	(0.005)

Liverpool	-0.083***	-0.079***	-0.022*	-0.022*
	(0.006)	(0.005)	(0.010)	(0.010)
Manch	-0.045***	-0.045***	0.011	0.012*
	(0.005)	(0.005)	(0.006)	(0.006)
Newcastle	-0.035***	-0.035***	0.023***	0.025***
	(0.007)	(0.007)	(0.007)	(0.007)
Nott	0.024***	0.028***	-0.001	-0.001
	(0.007)	(0.007)	(0.011)	(0.011)
Reading	0.016*	0.019*	0.103***	0.097***
	(0.008)	(0.008)	(0.011)	(0.010)
time (hours)	0.008***	0.008***	0.018***	0.017***
	(0.001)	(0.001)	(0.000)	(0.000)
Repeat Case	0.009**	0.009**	-0.068***	-0.074***
	(0.003)	(0.003)	(0.003)	(0.003)
_cons	0.692***		0.107***	
	(0.013)		(0.012)	
n	108570	108570	112336	112336

Dependent variable is the outcome, which is a binary variable that takes the value of 1 if the case closes with an outcome of substantive benefit to the client. Columns (1) and (3) reports OLS coefficients and columns (2) and (4) reports the margins at the means after a Logit regression. Standard errors in parentheses * $p<0.05$, ** $p<0.01$, *** $p<0.001$

Table 3-11. Regression results (LOGIT). Dependent variable 'plan better'

	(1) DEBT OLS	(2) DEBT LOGIT	(3) HOUSING OLS	(4) HOUSING LOGIT	(5) WELFARE OLS	(6) WELFARE LOGIT
NP	-0.030***	-0.026***	0.109***	0.112***	-0.034***	-0.037***
	(0.004)	(0.004)	(0.003)	(0.003)	(0.003)	(0.003)
Eth: Unknown	0.016	0.013	-0.001	-0.007	-0.048***	-0.051***
	(0.008)	(0.008)	(0.006)	(0.007)	(0.007)	(0.007)
Eth: Black	0.007	0.007	-0.011*	-0.011*	-0.022***	-0.021***
	(0.006)	(0.006)	(0.004)	(0.005)	(0.005)	(0.005)
Eth: Asian	0.007	0.007	0.015*	0.015*	-0.038***	-0.038***
	(0.007)	(0.007)	(0.006)	(0.006)	(0.005)	(0.005)
Eth: Other	0.108***	0.093***	0.071***	0.066***	0.030***	0.023***
	(0.009)	(0.008)	(0.006)	(0.006)	(0.006)	(0.005)
Dis: Has disability	-0.008*	-0.008*	-0.021***	-0.018***	-0.081***	-0.072***
	(0.003)	(0.003)	(0.003)	(0.003)	(0.003)	(0.003)
Dis: Unknown	0.010	0.010	-0.015**	-0.013*	-0.006	-0.001
	(0.006)	(0.006)	(0.005)	(0.005)	(0.006)	(0.005)
Gender: F	-0.013***	-0.012***	-0.014***	-0.014***	0.003	0.004
	(0.003)	(0.003)	(0.003)	(0.003)	(0.003)	(0.003)
Gender: unknown	0.085*	0.066	0.014	-0.004	0.084**	0.062*
	(0.039)	(0.036)	(0.026)	(0.027)	(0.028)	(0.026)
Age	0.001	0.001	-0.002***	-0.002***	0.002**	0.002**
	(0.001)	(0.001)	(0.001)	(0.001)	(0.001)	(0.001)
Age sq	-0.000*	-0.000*	0.000***	0.000***	-0.000*	-0.000**
	(0.000)	(0.000)	(0.000)	(0.000)	(0.000)	(0.000)
Birmingham	-0.048***	-0.045***	-0.114***	-0.120***	-0.096***	-0.093***
	(0.006)	(0.006)	(0.006)	(0.007)	(0.005)	(0.005)
Brighton	-0.006	-0.003	0.030***	0.024***	-0.032***	-0.026***
	(0.007)	(0.007)	(0.006)	(0.006)	(0.007)	(0.007)
Bristol	-0.027***	-0.024***	-0.015*	-0.014*	-0.027***	-0.023***
	(0.006)	(0.006)	(0.006)	(0.006)	(0.006)	(0.006)
Cambridge	-0.067***	-0.067***	-0.051***	-0.052***	0.050***	0.039***
	(0.006)	(0.007)	(0.007)	(0.007)	(0.006)	(0.005)
Cardiff	-0.056***	-0.054***	-0.229***	-0.269***	-0.096***	-0.092***
	(0.007)	(0.007)	(0.006)	(0.008)	(0.006)	(0.006)
Leeds	0.014*	0.016*	-0.067***	-0.064***	-0.050***	-0.044***
	(0.007)	(0.007)	(0.006)	(0.006)	(0.006)	(0.006)
Liverpool	-0.128***	-0.139***	-0.158***	-0.168***	-0.232***	-0.284***

	(0.007)	(0.008)	(0.007)	(0.008)	(0.005)	(0.007)
Manch	-0.032***	-0.029***	-0.062***	-0.062***	-0.059***	-0.055***
	(0.006)	(0.006)	(0.005)	(0.005)	(0.005)	(0.005)
Newcastle	-0.073***	-0.073***	-0.052***	-0.048***	-0.089***	-0.086***
	(0.007)	(0.007)	(0.007)	(0.007)	(0.006)	(0.007)
Nott	0.018**	0.020**	-0.031***	-0.030***	-0.093***	-0.088***
	(0.007)	(0.007)	(0.007)	(0.007)	(0.007)	(0.007)
Reading	0.030***	0.031***	0.053***	0.049***	0.034***	0.028***
	(0.008)	(0.008)	(0.008)	(0.007)	(0.008)	(0.007)
time (hours)	-0.027***	-0.032***	-0.028***	-0.037***	-0.029***	-0.038***
	(0.001)	(0.001)	(0.001)	(0.001)	(0.001)	(0.001)
Repeated Case	0.018***	0.017***	0.013***	0.013***	0.012***	0.011***
	(0.004)	(0.004)	(0.003)	(0.003)	(0.003)	(0.003)
_cons	0.413***		0.416***		0.450***	
	(0.014)		(0.012)		(0.013)	
n	106,574	106,574	101,801	101,801	108570	108570

Dependent variable is the outcome, which is a binary variable that takes the value of 1 if the case closes with the outcome the client is advised and able to 'plan better', 0 otherwise. Columns (1) and (3) and (5) reports OLS coefficients and columns (2) and (4) and (6) reports the margins at the means after a Logit regression. Standard errors in parentheses * $p<0.05$, ** $p<0.01$, *** $p<0.001$

Table 3-12. Debt outcome codes by provider type

Outcome Code	% of cases with this outcome done by NP	% of NP cases	% of FP cases	% Overall
DA-Liability contested successfully	42.18	0.83	5.42	1.63
DB-Debt written off (rather than just reduced	67.68	1.75	3.98	2.14
DC-Debt reduced	75.77	1.60	2.44	1.74
DD-Affordable payment arrangements negotiated	88.72	37.26	22.59	34.71
DE-Admin order made	88.41	0.48	0.30	0.45
DF-Client referred for IVA	79.38	0.17	0.22	0.18
DG-Bankruptcy order made	88.75	8.08	4.88	7.53
DH-Client advised and able to plan and/or manage their affairs better	80.19	26.23	30.91	27.04
DI-Matter concluded otherwise	69.98	3.40	6.96	4.02
DJ-Debt Relief Orders Made	98.16	3.80	0.34	3.20
DU-Matter stopped on advisor's rec	76.86	1.61	2.32	1.74
DV-Matter proceeded under other CLS Funding	27.25	0.13	1.71	0.41
DW-Client referred to another organisation	76.56	0.65	0.95	0.70
DX-Client advised and taking action themselves or with the help of a third party	82.14	3.71	3.85	3.74
DY-Client advised and third-party action or decision awaited	76.98	0.77	1.10	0.83
DZ-Outcome not known/client ceased to give instructions	79.03	9.50	12.02	9.94
Total	82.67	100.00	100.00	100.00

Table adapted from: Legal Aid Agency (2018)

Table 3-13. Housing outcome codes by provider type

Outcome Code	% of cases with this outcome done by NP	% of NP cases	% of FP cases	% Overall
HA-Client receives damages or property	31.69	0.62	1.28	0.95
HB-Client receives new or increased periodical payment	66.00	1.98	0.98	1.47
HC-HA and HB	53.27	0.54	0.45	0.50
HD-Sum owed by client to a third party is reduced or is less than claimed	53.21	1.16	0.98	1.07
HE-Liability of client to make regular payments is reduced or is less than claimed	63.93	1.00	0.54	0.77
HF-Client housed, re-housed or retains home	58.24	32.27	22.27	27.17
HG-Repairs or improvements to the client's home	36.56	1.57	2.63	2.11
HH-Opponent/other party action benefits client	32.06	1.72	3.52	2.64
HI-Opponent/other party action prevented	31.08	1.38	2.95	2.18
HJ-Opponent/other party action delayed	41.95	1.41	1.88	1.65
HK-Client secures explanation or apology	18.39	0.67	2.85	1.78
HL-Client advised and enabled to plan and/or manage their affairs better	57.70	34.19	24.12	29.06
HM-Matter concluded otherwise	43.23	4.56	5.76	5.17
HU-Matter stopped on advisor's rec	37.70	1.24	1.98	1.62
HV-Matter proceeded under other CLS Funding	13.82	2.16	12.94	7.65
HW-Client referred to another organisation	64.94	1.05	0.55	0.80
HX-Client advised and taking action themselves or with help of a third party	52.05	3.97	3.52	3.74
HY-Client advised and third-party action or decision awaited	59.65	1.10	0.72	0.91
HZ-Outcome not known/client ceased to give instructions	41.39	7.39	10.07	8.76
Total	49.04	100.00	100.00	100.00

Table adapted from: Legal Aid Agency (2018)

Table 3-14. Welfare outcome codes by provider type

Outcome Code	% of cases with this outcome done by NP	% of NP cases	% of FP cases	% Overall
WA-Client receives/retains lump sum	74.17	5.72	6.77	5.96
WB-Client receives continuing, increased or new periodical payment	78.26	21.30	20.11	21.03
WC-Client receives/retains both a lump or periodical payment	84.23	18.20	11.58	16.69
WD-Sum owed by client to a third party is reduced or is less than that originally claimed	77.02	2.40	2.43	2.40
WE-Liability of client to make regular payments is reduced	64.95	0.56	1.02	0.66
WF-Client advised and able to plan and/or manage their affairs better	76.09	25.63	27.36	26.02
WG-Matter concluded otherwise	72.52	10.21	13.15	10.88
WU-Matter stopped on advisor's rec	77.55	3.31	3.25	3.29
WV-Matter proceeded under other CLS Funding	57.58	0.11	0.28	0.15
WW-Client referred to another organisation	82.35	0.53	0.39	0.50
WX-Client advised and taking action themselves or with the help of a third party	80.02	2.45	2.07	2.36
WY-Client advised and third-party action or decision awaited	67.04	1.08	1.81	1.25
WZ-Outcome not known/client ceased to give instructions	74.72	8.50	9.77	8.79
Total	77.26	100.00	100.00	

Table adapted from: Legal Aid Agency (2018)

Table 3-15. Immigration outcome codes by provider type

Outcome Code	% of cases with this outcome done by NP	% of NP cases	% of FP cases	% Overall
IA-Client Granted Permission to Enter/Remain Permanently	36.28	8.97	11.84	10.60
IB-Client Granted Humanitarian Protection or Discretionary Leave to Enter/Remain	31.94	1.59	2.54	2.13
IC-Case Results in Grant of Other permission to Enter/Remain for a Defined Period	42.56	11.69	11.86	11.79
ID-Citizenship gained	37.56	1.07	1.33	1.22
IE-Application refused	35.47	8.45	11.56	10.22
IF-Matter concluded otherwise	43.77	5.71	5.51	5.60
IG-Decision Withdrawn	26.32	0.37	0.78	0.61
IU-Matter Stopped on Advisors Rec	35.60	5.71	7.77	6.89
IV-Matter proceeded under other CLS Funding	15.20	0.48	2.02	1.36
IW-Client Referred/Transferred to Another organisation	33.65	3.06	4.53	3.90
IX-Client advised and taking action themselves	67.64	20.55	7.39	13.04
IY-Client advised and third-party action or decision Awaited	34.56	1.56	2.23	1.94
IZ-Outcome not known/client ceased to give instructions	53.25	15.10	9.97	12.17
Unknown	26.32	0.01	0.02	0.02
Double Dash	36.35	15.68	20.65	18.52
Total	42.91	100.00	100.00	100.00

Table adapted from: Legal Aid Agency (2018)

4 Fun with fixed fees – contracts and competition in housing legal aid services

Abstract

In the UK, and other countries, politicians have encouraged charities to deliver services, on behalf of the state, based on a belief that they are higher quality or have some distinctive features. This paper adds to the evidence base on whether they do have any distinctive features, and if so, whether such features can be maintained when they are funded through contracts. I use a large dataset from the Ministry of Justice to shed light on what happens when NPs compete against FPs to deliver a service in the same funding environment. I find some support for the theory that NPs are higher quality, as they close more cases with substantive benefit to clients and this difference is maintained over the contracting period. On other measures there is convergence between NPs and FPs such as the time allocated per case. I find some evidence of gaming from both NP and FP providers.

4.1 Introduction

Since the 1980s, in the UK and other countries, there have been efforts to move away from the '*traditional*' model of centralised public service provision by the state, which has been criticised for being inefficient and failing to offer adequate choice to those who use the service (Besley and Ghatak 2003). In the UK a major aim of the 2010 to 2015 Coalition Government, was to use competition to '*open up*' the delivery of public services to more non-profit or charitable organisations, as well as private enterprises (Cabinet Office 2011; 2014). This has changed the relationship that many charities have with the state as they take on a new role as a service provider. It has also introduced many charities, who have traditionally been funded through grants, to the sort of price competition that is common in the private sector.

In theory there are a range of benefits that NPs can bring to service delivery, including being higher quality (Hansmann 1980; Glaeser and Shleifer 2001), more innovative and responsive

to local need, having a distinct social mission (Weisbrod 2004), and being better able to harness the efforts of a pro-socially motivated workforce (Francois 2003). There are other theories that argue the benefits of non-profits have been overstated (Malani and Choi 2004). Even authors who do think that NPs will have distinctive features, have cast some doubt, as to whether these can be maintained, when they have to compete with FPs to deliver contracts.

Sloan (2000) argues increased competition in hospitals will narrow the differences between NPs and FPs as the competition limits the potential NPs will have to produce outputs '*they deem to be socially worthy*'. In some other service areas there is evidence of convergence between provider types (Gruber 1994; Kapur and Weisbrod 2000). There are other theories that suggest that NPs will fare well in competition. For example, Besley and Ghatak (2005), argue that competition can aid the process of matching the mission between staff and managers. Lakdawalla and Philipson (2006), argue that NP providers will have a cost advantage over FP providers, as they can draw on donated labour or grants. A different approach is offered by Grabowski and Hirth (2003), who argue that the benefits of NP provision, is not something that should be viewed in the outcomes achieved by individual NP providers, but, the positive spillover effects they have on the market place as a whole.

The contribution of this paper is twofold. Firstly, it adds to the empirical evidence on the differences between how NP and FP providers deliver services. I use a large and unique administrative dataset on the delivery of Legal Aid services. This is a service area that is delivered by a combination of For-Profit (FP) solicitors firms, and charities or Non-Profit (NP) providers.

The second contribution, is to explore whether these differences between providers are maintained in a more competitive environment. In this paper, I exploit two large changes in the funding of legal services, in order to look at whether differences between NPs and FPs continue to persist, since providers are put under more cost pressures and encouraged to compete against each other to win contracts. The issues that arise in developing contracts for legal aid, an area where quality is important but hard to observe, apply to many other public services.

Legal Aid is an area that has not received very much attention from academics, who for the most part have focused on public services, such as health and education (Economidies *et al.* 1986). It has, however, received a significant amount of government scrutiny. The Ministry of

Justice (2011), reported that there have been over 30 separate consultations into various aspects of legal aid over the last 5 years. While this is infuriating for practitioners, the constant changes to the funding of legal aid provide ample opportunities for research purposes. In this paper, I examine the effects of the efforts to streamline the contracts for all providers of legal aid. I discussed more details in Chapter 3 about the type of providers that deliver legal aid. I continue to use the same abbreviations whereby FP indicates for-profit firms (solicitors) and NP is used for any not-for-profit organisation. There are three time periods; in the first, they were funded differently; and in the second and third, they faced identical conditions.

The methodology used firstly compares the performance of NP and FP providers, in each of the three time periods identified above, in housing legal aid. The providers are compared along two main dimensions (1) time taken per case, and (2) the outcomes achieved for clients. Within these two categories, I also identify some measures, which could indicate that providers are '*gaming*' contracts. The two measures I use that could indicate gaming are (1) spending very short amount of time on a case, and (2) reporting the outcome code that has the least '*tangible*' benefits to the client (Balmer *et al*. 2012).

For the difference between Period 0 and Period 1 I am using a difference-in-difference, where only one group is assumed to be treated, this is NPs who start having fixed fees for the first time. FPs are the control group in this case. For the changes to the contracts between Period 1 and 2 I am using heterogenous treatments analysis. The method used is to compare the same treatment (i.e. the introduction of the standard contract) to two different groups (NPs and FPs) and I am testing if they responded in the same way to this change.

The results show convergence on some measures. For time taken per case, prior to the introduction of the Unified Contract in 2007, there were large and significant differences in time taken to complete cases, with NP providers taking around 50 minutes longer per case. When the funding conditions were unified, there was almost complete convergence on the average time per case. This convergence was driven by a behavioural change, with the NP providers reducing the amount of time taken per case. Some changes take place by the exit from the marketplace of some FP providers, who took less time per case. This provides some support for the theory proposed by Lakdawalla and Philipson (2006) that FPs will be the first to exit the market when conditions become more unfavourable to providers.

There is some evidence that NPs are higher quality, because they close a larger share of outcomes that have been defined as being of '*substantive benefit*' to the client. This is the indicator of quality used in these contracts. Both providers improve on this measure, but the two provider types do not converge. At the end of Period 2, there are still large and significant differences between providers. In addition, NP providers are less likely than FPs to close cases in a very short amount of time.

These results have significance for a wide variety of public service areas, who outsource and fund their providers, using a fixed fee mechanism. This raises some concerns about efforts to increase the diversity of providers of public services through competition. While it is true that the reforms did encourage more NP provision of Legal Aid advice, the NP providers ended up converging in behaviour, on some measures, to the FP providers they were competing with.

There are also concerns about how quality is monitored in the contracts. There are very limited attempts to assess quality in the contracts, and there is no attempt to value some of the other activities or services offered by providers. Even those quality standards that are in place, such as the outcomes achieved, and the time taken per case, do not seem to be met by all providers – particularly FPs. There also seems to be the potential to game the performance standards, to give the appearance that quality is improving. Closer inspection shows that all the recorded improvements, in outcomes, are driven by the increasing number of times providers use the very ambiguous outcome code, that the client has been able to '*plan better*', instead of the more substantive outcomes of, for example, retaining their home or being rehoused.

The rest of the paper is structured as follows: The next section describes legal aid and the reforms in more details. Section 3 sets out the framework for analysis. Section 4 describes the data and empirical strategy. Section 5 sets out the results. Section 6 concludes.

4.2 Legal Aid and the introduction of competitive tendering

In this chapter, I study the introduction of competitive tendering within Legal Aid contacts for civil cases (criminal cases are not considered here). In the previous Chapter, I set out a general introduction to the public provision of legal aid services. To recap, Legal Aid is the provision of advice and support, to people who experience a problem. I am looking at civil legal aid or

'*social welfare law*', which are those areas of law, '*that impact on poor and disadvantaged communities*' (Hynes 2012). The dataset used is on '*Legal Help*', which is the first level of legal aid and assistance people can access. The service enables people to get information, and in some cases, the provider will negotiate and represent the client to third parties.

Legal Aid began being publicly funded in 1949. Unlike many other service areas, at the outset, it was delivered almost exclusively by private solicitors, and administered by the professional body of solicitors, the Law Society (Moorhead *et al*. 2003). This is quite different from some other service areas, where services were set up by charities, and FP firms have come to be involved only recently. There has been a gradual expansion of non-profit provision of legal aid. with an increase in the number of non-profit firms entering the market place, during the time period of this data.

In the preceding chapter, I described the differences between these private solicitors (FPs) and non-profit firms (NPs) in more detail. In some areas of Legal Aid, NP firms have a different operating model to FP firms. The Citizens Advice Bureau, the best-known NP provider of advice (Patel *et al*. 2008) often uses volunteers to deliver advice. This can mean that the people delivering advice have lower levels of qualifications in NPs, compared to FPs. This is not the case with all volunteers, with solicitors often providing *pro bono* advice, but, on aggregate, there are more qualified lawyers working in FP firms. Some authors make a distinction between '*lawyer*' and '*non-lawyer*' firms (see Moorhead *et al*. 2003). While this has often mapped onto the differences between NP and FP firms, this is blurring, as more FP firms have made greater use of non-lawyer non-legally qualified staff, which is sometimes known as '*para-legalisation*'. While some concerns have been raised that the increasing use of non-lawyers may reduce quality (Ministry of Justice 2009), more recently the government has encouraged firms who are partly or entirely controlled by non-lawyers to provide services, as they believe it encourages the market to provide more affordable legal services to consumers (Ministry of Justice 2016).

In this paper, I focus on housing legal aid, as this is area predominately delivered by NP and FP providers, where most of the staff (in both NP and FPs) are solicitors, thus, it is a more accurate comparison of like-for-like. It is also an area of legal aid where a very similar numbers of cases are delivered by NP and FP providers. In the dataset I am using, 52% of cases were delivered by FPs and 48% by NPs.

This paper looks at the period between 2005 and 2012, where the contracts for NP and FP firms were standardised, so both provider types face identical conditions. This involved some large changes to the way Legal Aid was funded. It is these changes that I exploit to see if the differences, between NP and FP providers, are maintained, in a more competitive funding environment.

In the analysis, I look at three distinct phases. The first phase is called "Period 0" in the rest of the paper and refers to cases that began between 2005 and 2007. During this time period, there had been some attempts to make NP and FPs face the same conditions. For example, administrative control had been removed from the Law Society and Specialist Quality Marks were developed, which were open to non-lawyer providers of legal aid. In this time period, NPs and FPs were funded differently; NPs were paid by the hour, and FPs were paid on by tailored fixed fees, which had been introduced in 2005.

During this time period, a review of legal aid was conducted by Lord Carter of Coles (2006). This report recommended using a market-based approach to procure legal aid services, motivated mainly by the need to find financial savings and promote efficiency. To work towards this market-based approach, the report recommended that all legal aid contracts should be standardised, requiring all providers, NP and FP, to face the same funding structure. This led to the changes I study in the next two time periods.

The second phase (referred to as "Period 1") began in October 2007, where the providers for legal aid were part of the '*Unified Contract*'. This introduced fixed fees for civil legal aid, following the recommendations made in the Carter Review. This contract was called '*The Unified Contract*' because it unified the contracts, so that they were the same for all providers, non-profits and private solicitors. The main feature of the contract was the '*fixed fee*' structure, meaning that providers were paid the same fixed amount for a case, regardless of the time spent. This also meant that the competitive process was identical for all providers of legal aid. Table 1 below, summarises the main changes during these contracting periods.

The fixed fees introduced a clear incentive for providers to spend less time per case and caused concerns that this would risk the quality of advice. In response to such concerns, as well as the large growth in demand for advice services, during the recession following the banking crisis of 2008, Lord Bach conducted a study into the provision of legal advice at the local level

(Ministry of Justice 2009). This reported in 2009 and set out some of ways that providers may be able to '*game*' the new legal aid contracts. This included, cherry picking cases, closing cases early, splitting up cases, and manipulating outcome codes. All of these gaming methods could perversely affect client outcomes. In section 4.3, I set out some performance measures that might be indicative of gaming on the part of providers.

The other important change, that was introduced in 2007, was a set of new Key Performance Indicators ("KPI") for legal aid. The stated intention of these KPI's was to prevent providers lowering the quality of advice, and the measures were designed to capture the quality of work, value for money and client access (Legal Services Commission, 2010). Providers had to report on these KPI's, but failure to meet the KPI's was not considered a breach of contract. In practice, the measures have a very limited definition of quality and I discuss in some detail the limitations of the definition of quality they use, which measured through the number of cases that end with a positive outcome for the client.

The third phase (referred to as "Period 2") began in April 2010, when the 'Standard Contract' was introduced, for providers who were successful in tendering to deliver the service. This was similar, in most ways, to the Unified Contract. One of the main differences was that now failure to meet the KPIs by a provider was considered a breach of contract. In practice, there is little evidence that these KPIs were rigorously enforced, and some of the standards were not binding in any case with providers finding it relatively easy to meet them. The changes are summarised in table 4.1.

Table 4-1. Summary of changes to legal aid funding

	Pre-Reform (Period 0)	**Unified Contract (Period 1)**	**Standard Contract (Period 2)**
Dates	April 2005 (pre-reform period longer but I used cases after this date)	Oct 2007 – 2010	Nov 2010 – 2013
Payment structure for NP's	Paid an hourly rate for work done.	Fixed Fees	Fixed Fees
Payment structure for FP's	Tailored Fixed Fees	Fixed Fees	Fixed Fees
Pre-requisits for firms to apply for contracts	Quality Mark (introduced in 2000)	Level 3 Quality Mark	Level 3 Quality Mark
Key Performance Indicator's	None.	KPI 1 Civil Contract Work – matters and cases providing substantive benefit to clients – 40% (min) (Q) KPI 2 Controlled Work (non-fixed fee) –Assessment reduction – 10% (max) (V) KPI 3 Licensed Work – Assessment reduction – 10% (max) (V) KPI 4 Fixed Fee Margin – 20% (max) (V) KPI 5 Matter Start Usage – 85% (min) (A)	All the same KPI's with the addition of: Timeliness for Completion of Cases – new for 2010. Damages: Net costs – 2:1 (min) –
Assessment of KPI's	None.	KPIs in the Unified Contract for monitoring purposes only.	KPI's used as formal contract requirements from 2010.

4.3 Framework

In this section, I outline some of the main features of the contracts that were introduced in 2007 and 2010 for Legal Aid. I set out a simple framework, with some hypothesis of how NP and FP might respond differently to these contracts. There are two main areas which I study: the time taken and the outcomes achieved.

4.3.1 Time taken

The contracts introduced in Period 1 and Period 2 have a '*fixed fee*' payment structure. This means providers get paid the same for any case, regardless of how much time the case takes to complete. This fixed fee structure puts a very strong cost pressure on providers.

There is some leeway for providers to take on cases that are particularly complex, since if a case ends up taking a very long time, defined as three times longer than the fixed fee (based on the old hourly rates), then firms can make a claim to be paid at the hourly rate. This is known as the '*exceptional case threshold*' within the contracts. These cases undergo more scrutiny by the Legal Services Commission, with all exceptional cases subject to assessment. When the cases are submitted as exceptional, the provider is initially paid the standard fee, while the costs are being assessed by the LSC, and then credited with any balance deemed appropriate by the LSC.

To avoid providers gaming this measure, and opening and closing short cases, the contract has a KPI that introduces a '*fixed fee margin*'. This '*fixed fee margin*' KPI specifies the time a provider takes, should not fall below 20% of the fixed fee amount. In practical terms, how this is calculated is slightly counter intuitive, because the whole point of fixed fees is that there is no hourly rate associated with each case, but, the LSC look at the costs that would have been payable had the previous hourly rates been applied. This should prevent providers consistently opening and immediately closing cases, without spending any significant time on the case. The Standard Contract (Period 2) made this an enforceable KPI.

Figure 4.1 illustrates these features. Thus, a provider is paid the same fixed fee, if they spend between 0 minutes and the exceptional threshold. The fixed fee was £171 in 2007. This means that providers are expected to spend roughly 3.5 hours on each case (based on the hourly rate of £50.70 outside London). By the rules of the KPI, they should not be spending less than the fixed fee margin. Providers who consistently take longer than the amount of time allowed by the fixed free structure, and less than the exceptional threshold, will make a loss. Conversely, providers who consistently take less time than the fixed fee threshold, could potentially make large profits.

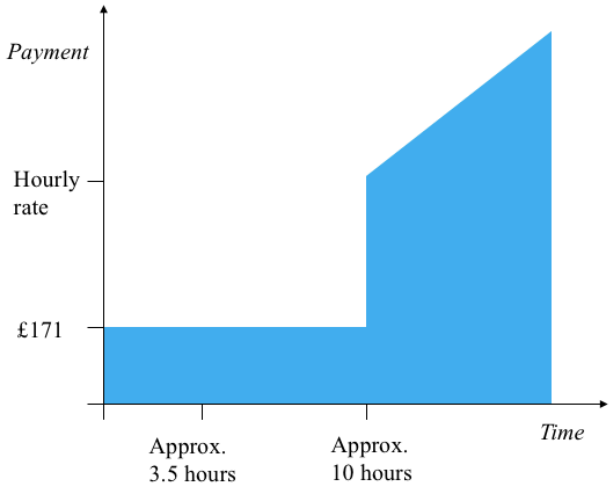

Figure 4-1: The fixed fee schedule

This means it is not just the average time that is important in determining profitability, but also the distribution of the cases. For this reason, I look at two measures for time: the average time and the number of very short cases a provider takes on.

Of course, if a firm reduces the amount of time they spend on cases this is not necessarily bad, if they are maintaining or improving quality. A firm that is able to reduce the amount of time spent, but maintain good quality outcomes, is making efficiency improvements. In the next section, I include outcomes, and all the analysis in this paper includes time as a control variable for outcomes.

I examine time because, despite this ambiguity over whether reducing time spent on cases is good or bad, it is a good indicator of those providers who are lowering their costs. Secondly, there is a link between outcomes and time spent (which is discussed more in the next section) and providers who consistently close extremely short cases are likely to be low quality, and this could be an indication of gaming the contracts. Providers who close cases very early, was identified as a gaming response in the Bach Review (Ministry of Justice 2009). It is linked to another concern that providers would 'cherry-pick' the easiest cases that would take shorter amounts of time, avoiding those cases that are more complex and consequently, take longer. It would be preferable for me to be able to observe more complex cases, but there is no indicator for this in the dataset. So, while time is not perfect as a measure to examine gaming in the contracts, those providers consistently closing very short cases raise concerns about quality. Their incentive to close cases changes between 2007, when it was monitored but not enforced,

and 2010, when it was enforced. In practice, firms that wish to rebid for contract may not want to close very short cases in 2007, as their reputation is likely to be damaged by this behaviour.

FP providers, by definition, have stronger incentives to profit maximize, because they do not face the non-distribution constraint, so have a stronger incentive to cut time per case. On the other hand, FPs were already facing these constraints in the previous contract, meaning that the new constraints may be more binding and onerous, for NPs. Overall, there is ambiguity in what the overall effect will be.

4.3.2 Outcomes

Legal Aid is like many public service areas, in that it is difficult to measure quality and outcomes. Many NP firms state that their mission is about delivering justice and other broad outcomes for the clients that they serve, but these longer-term outcomes have never really been attempted to be measured by the commissioners of advice services. Some of these issues are discussed at greater length in Chapter 3.

All providers are asked to capture the immediate outcome of the case for the client. This monitoring data was a condition of the contract from 2007, and prior to this was reported inconsistently by providers. Providers choose the outcome from a list of 19 different possible outcome codes in housing. These codes are grouped into two categories; those that are of '*substantive benefit*' for clients; and those that are not considered '*substantive benefit*' for clients. These are sometimes described as '*positive*' or '*negative*' outcomes. One of the KPI's, included as a quality measure, is that 40% of cases are closed with an outcome that is of '*substantive benefit to the client*' (2010 Legal Services Commission).

In practice, the way the outcome codes are grouped into those that are positive and those that are negative is quite basic and for housing, all those cases that are considered to be concluded are positive. If two or more outcome codes apply, providers are instructed to choose the one that appears to be the most significant for the client. A full list of these outcome codes are provided in the appendix (table 4.10).

This system is by no means perfect. There are many limitations to the categorising of all completed cases as '*substantive benefit*'. This means that a provider gets the same amount of

credit in this monitoring scheme, for achieving the potentially life changing outcome of a client avoiding homelessness, as they would, for getting the vaguer outcome, which is defined as the client '*advised and enable to manage their affairs better*' (referred to as '*plan better*' in the rest of the paper). In the classification scheme used by the Legal Services Commission, both of these outcomes would count as being of '*substantive benefit*' to the client, when, in reality, avoiding homelessness is perhaps a more tangible benefit, than planning to avoid homelessness in the future.

This provides an incentive for providers to choose the outcome code '*plan better*' whenever possible. Indeed, guidance produced by the advice sector actively encourages providers to do this. The LAG Legal Aid handbook advises providers to choose an outcome, which would meet the definition of '*substantive benefit*' if possible. The Legal Action Group handbook states:

"If there is a suitable positive outcome code, you should always select it, rather than one the LSC regards as negative. So, for example, where justified by the case, you should always select 'client advised and enabled to plan and/or manage their affairs better' rather than 'client ceased to give instructions'" (Legal Action Group 2011)

Although this is perfectly reasonable advice, it does indicate that there are cases that are '*on the line*' between being defined as substantive benefit, or not. It also means that a provider could appear to have improved the quality of the advice they have delivered, when all they have really done is changed the outcome code they report. There is also a large divergence in the amount of time taken on different outcome codes. Those cases that close with the outcome code to '*plan better*' take significantly less time, than other outcome codes. There is also an outcome code ("HV") where the matter proceeds under other Civil Legal Aid funding, such as Certificated Work. This takes the longest out of any of the outcomes but is not considered to be of '*substantive benefit*' to the client by the LSC. This is considered a positive outcome by many legal aid experts.

This does not mean it would be desirable to set targets for providers achieving more outcomes that end with some of the more specific outcome codes, such as code "HF", where a client is housed. It is very difficult to put the outcome codes into any sort of hierarchy, because it depends on the nature of the problem and the expectations of the client. Some outcomes will not be a valid or possible outcome for many of the cases that providers take on. For example,

a disrepair case will not be able to end with the outcome code '*client retains home*' because the client was not at risk of losing their home. In addition, many other factors that would influence the outcome may be beyond the control of the provider. These issues are discussed at greater length in chapter 3.

The debate about how outcomes, should or could, be measured is beyond the scope of this paper, but it means that caution is applied in using the measure of '*substantive benefit*' as defined by the LSC, as a proxy for quality. Nonetheless, it is the only indicator for quality I have, so it is the one I will use. The economics literature, on NP providers, suggest that they will be more likely to offer higher quality advice, either due to a less binding constraint on profits, and/or, because they have staff more likely or able to display pro-social motivations. I will test whether NPs will be higher quality than FPs, in terms of more outcomes closing with tangible substantive benefits.

In the analysis, I also look at the number of cases that each provider type closes with the less tangible outcome '*plan better*'. The likely effect of the reforms in 2007 and 2010, is to encourage providers to close more cases with substantive benefit, as they were now being monitored on it, but in doing so may encourage them to report more cases on the less tangible outcome code of '*plan better*' since this was defined by the LSC as falling within their definition of '*substantive benefit*'.

In summary, I am looking at two main categories– the time taken per case and the outcomes achieved. I will test whether NPs take longer per case and whether they achieve better outcomes. Within both these categories, I also test for a variable that may indicate gaming, such as, taking very short amounts of time, or reporting the outcome code '*plan better*'.

4.3.3 Summary of Research Questions

In section 4.3.1 and 4.3.2 I discussed the pressures the contract changes in Period 1 and 2 put onto firms to reduce the time they take per case and sustain or improve the outcomes they achieve for clients.
This leads several hypothesis of how NPs and FPs may respond differentially to the contract changes.

In terms of time taken, the 'contract failure' theories of firm behaviour would predict that FP providers have stronger incentives to cut time taken per case as this will increase the profit firms can make on the contract. Overall, I'd therefore expect FPs to reduce the time they take over the contracting period more than NPs. NPs, however, have a different starting point to FP firms as they begin under a different funding system so they have a bigger 'shock' or increased time pressure comparative to FPs so I'd expect them to reduce time more in the first period. In terms of taking very short amounts of time I'd expect FP firms to have more of these cases and to increase the share of these cases across all time periods.

Hypothesis 1a: NPs providers will reduce the time they take between Period 0 and Period 1 more than FP providers.
Hypothesis 1b: FP providers will take a longer time overall than NP providers in Period 2.

Hypothesis 2: FP providers will report more cases closing with a very short amount of time compared to NP firms in every time period.

The 'contract' failure theory also predicts that NP providers will be higher quality than FP firms and I'd expect them to be get better outcomes, and maintain this higher quality, compared to FPs in spite of the greater time pressures on providers between period 1 and period 2. This is captured in the following hypothesis about the proportion of cases each provider type achieves that have an outcome of 'substantive benefit' to the client (as defined by the LSC).

Hypothesis 3: NP providers will report more cases closing with an outcome of substantive benefit to the client compared to FPs.

The final variable to be analysed is the same as above, i.e. substantive benefit, but without including the most 'gameable' outcome measure. I'd expect NPs to be higher quality and thus FPs to perform worse on the measure of 'substantive benefit' when the more gameable outcome code has been removed compared to NPs. As there is more pressure on providers to achieve higher outcomes in Period 2 when the KPI's become enforceable, I'd expect FPs to be more likely to game and report the less tangible outcome code more in Period 2 than Period 1, compared to NP providers. This leads to the following two additional hypotheses.

Hypothesis 4a: NP providers will achieve more cases of substantive benefit when the more tangible outcome code is removed compared to FPs.
Hypothesis 4b: FPs will reduce the number of cases they close of substantive benefit with the more tangible outcome code removed, between Period 1 and Period 2, compared to NPs.

4.4 Data

The data used in this paper was obtained using a Freedom of Information request submitted to the Ministry of Justice. It covers all cases of Legal Help for housing cases up to 2013, and there are 720,618 observations. There are very few cases reported in each year before the year 2005, so all observations that occurred before the 1st April 2005 date were dropped. Cases with providers who have less than 5 cases are also dropped. Cases where clients were aged under 16 or over 99, are marked as missing. This left a sample of 677,517 cases.

Each provider has a unique provider ID, which means it is possible to identify all cases completed by each provider. Providers are recorded as taking one of two organisational '*types*' of supplier. The first supplier type, is solicitors firms, all of which are FP. The second supplier type, is NP organisations.

There are 1,484 providers of legal aid over all time periods. The overall case load is fairly evenly split, between NPs and FPs, with 48% of the cases in the dataset conducted by NPs, and 52% by FPs.

Other information supplied about the provider is the local authority area in which they are operating. These have been coded to report which ones are London Boroughs, and these make up around 12% of cases. I have also used the Local Authority rural/urban classification, to code whether providers are located in a rural or more urban area. I have also coded in which UK region providers are based.

The summary statistics are reported in two tables. The first table below reports the main variables in each time period. These were obtained by collapsing the data set by period, so

show the average characteristics by provider type (NP compared to FP) in each period. The second table in the next section disaggregates providers by which period they entered or exited the market.

The first summary statistics table shows the number of FPs providing advice falls sharply over the course of the contracting period, with many of these firms exiting the market at the end of Period 1. There are 982 reported in the first period, and 481 in the last period. NP providers increase in number over the time period from 219 in the first period to 230 in the last. In each time period the average number of cases is greater for NP firms than FP firms.

The dataset contains some information about the client's demographics. This includes, their ethnicity (30% of cases are an ethnic minority), if they have a disability (23% of cases report a disability), their age, and their gender. Overall, more women access advice services than men (60%).

There are differences between the provider types, in terms of the characteristics of their clients, and this was discussed at length in chapter 3. NP firms have more clients with a disability, and less from an ethnic minority background. The differences in the ethnicity of the clients are no longer statistically significant when regional and urban classification are controlled for. The share of cases closed with clients with a disability rises between period 0, 1 and 2. The biggest increase is between period 0 and 1, although this is likely to be due to more accurate reporting which became a condition of the contracts in period 1.

The data reports several features of the case. The first is the time that is taken in minutes. There are large differences between NP and FP providers in Period 0, which narrows over the next two periods. NP's reduce their time, compared to FPs, by nearly an hour.

The summary statistics also show that there have been large improvements, in the proportion of cases that end with an outcome of '*substantive benefit*', between Period 0 and Period 2, with NP providers reporting better outcomes than FPs. In the next section, I will explore these differences further.

There are several other features of the cases that, while not a focus of this paper, are worth noting. One of these is that providers differ on the duration, in number of days, of which the

case is open for. NPs have cases open for less time than FPs. The interpretation of case duration is ambiguous. On the one hand it could be an indication of poor quality service for a client, as their case is ongoing for a long time, rather than being resolved quickly. It also could be an indication of gaming if providers keep cases open for a long time to 'hold out' for a good outcome, rather than close the case more immediately as has been identified in some analysis of the JTPA (see Courty and Marschke, 2004). On the other hand it could be an indication of more complex cases, that take longer to resolve. The case duration falls for both provider types between period 0 and period 2.

Housing cases are categorised into several different types of case, which vary from a homelessness case, where a person is at risk of being made homeless through, to a disrepair case, about substandard housing. These are not included in the summary statistics table. The coding for these cases changes slightly over the time period of the data set. In total there are 12 types of case, which I combine into 9 categories, to make it possible to use the same categories over all time periods.

Table 4-2 Summary Statistics 1

	Period 0: Prior to Fixed Fee's		Period 1: Unified Contract		Period 2: Standard Contract	
Variable	NP	FP	NP	FP	NP	FP
Providers:						
Number of Firms	219	982	258	922	230	481
Mean no. of cases by provider	449	139	571	168	354	123
Total cases	98281	136278	147310	154788	81481	59379
Client features:						
Age	38.89	41.53	38.53	40.25	38.99	40.16
Ethnicity Dummy	0.30	0.20	0.23	0.19	0.22	0.30
Disability Dummy	0.27	0.17	0.38	0.24	0.37	0.30
Female Dummy	0.61	0.61	0.58	0.60	0.59	0.60
Case features:						
Outcomes of substantive benefit	0.25	0.14	0.75	0.52	0.77	0.55
Outcome of substantive benefit (without 'plan better')	0.18	0.11	0.46	0.36	0.47	0.34
Time (minutes)	218.03	142.41	184.25	152.14	205.53	193.74
Proportion of very short cases	0.22	0.45	0.23	0.42	0.12	0.28
Case Duration (days)	217.70	236.45	113.34	128.40	103.83	115.46

4.4.1 Entering and Exiting firms

Table 4-3: Period in which firms exit or enter the market

	No. of Providers that exit in each period			No. of Providers that join in each period		
Period	FP	NP	All Providers	FP	NP	All Providers
0	142	28	170	(982)	(219)	(1,201)
1	517	86	603	88	69	157
2	(481)	(230)	(711)	70	56	126

Between 2005 and 2012 there are a large number of entering and exiting firms. The table above summarises when firms exit the market, and also when firms enter the market. In Period 0 it is perhaps a bit misleading to describe all the firms as 'joining' the market place then as this is the first year I am using in the analysis, in the same way it is a bit misleading to say the firms 'exit' in Period 2 as this is when my analysis stops, those firms don't leave, which is why these numbers are in brackets in the table above. More FP firms join, compared to NPs, in Period 1 and 2, with 157 providers (in total) joining in Period 1 and another 126 in Period 2. The biggest changes over the whole time period are the large numbers of exiting providers, the majority of which are FP, who exit before the end of Period 1. 517 firms exit the market who are FP compared to only 86 who are NP.

Since there are a much larger number of firms leaving than there are joining, I look in more detail at some of the features of the firms that exit, compared to those that don't in the second summary statistics table. This disaggregates the providers by the last period they are observed in the data set. So, rather than comparing period 0 to period 1 (the standard contract) and period 2 (the unified contract), it compares all those providers whose last case was in period 0 to period 1 and period 2. This enables some understanding of the characteristics of the firms who exited the marketplace in either period 0 or period 1, compared to those who did not exit.

The second summary statistics table below shows providers based on when they exited the data set. The providers that did not exit have on average a larger number of cases compared to those that exit in Period 0 or Period 1. The providers that did not exit also report a higher share of cases with a disability. The NP providers that don't exit have a lower share of cases where the

client is an ethnic minority, and FP providers that don't exit have a higher share of cases where the client is an ethnic minority.

In terms of the case characteristics, the providers that don't exit have a greater proportion of cases that end with an outcome that is of substantive benefit to the client (although this needs to be interpreted with caution for the providers that exit in Period 0 because in this time period outcomes were not reported consistently). The providers that don't exit have longer average case time but less very short cases. They also have shorter case durations.

Table 4-4: Summary Statistics Table 2 - when firms exited the market

	Firm exited the market during Period 0		Firm exited the market during Period 1		Firm exited the market during Period 2	
Variable	NP	FP	NP	FP	NP	FP
Providers:						
Number of Firms	28	142	86	517	230	481
Mean no. of cases by provider	75	46	495	115	1228	591
Client features:						
Age	34.02	42.11	39.05	40.96	38.99	40.44
Ethnicity Dummy	0.34	0.24	0.24	0.15	0.22	0.29
Disability Dummy	0.28	0.19	0.35	0.19	0.36	0.26
Female Dummy	0.54	0.60	0.59	0.61	0.59	0.60
Case features:						
Outcomes of substantive benefit	0.12	0.04	0.53	0.33	0.69	0.46
Outcome of substantive benefit (without 'plan better')	0.09	0.04	0.32	0.24	0.43	0.29
Time (minutes)	184.30	138.25	179.96	136.21	205.88	180.86
Proportion of very short cases	0.29	0.44	0.27	0.48	0.15	0.33
Case Duration (days)	289.38	270.34	130.42	163.98	129.06	146.77

4.5 Empirical Strategy

The first thing I do is compare how NP and FP perform on all the measures set out in section 3, across the three time periods

To recap these measures are; (i) average time taken (Hypotheses 1a and 1b) (ii) very short cases (Hypothesis 2) (iii) outcomes of '*substantive benefit*' (Hypothesis 3) and (iv) outcomes of 'substantive benefit' with the less tangible outcome '*plan better*' excluded (Hypotheses 4a and 4b). Outcomes were only reported consistently after 2007, so for measures (iii) and (iv), I can only compare across two time periods.

I then look at the introduction of the unified contract in 2007, the standard contract in 2010 and consider whether the differences between NPs and FPs were maintained in the more competitive environment.

The analysis can be thought of as a difference-in-difference for the first policy change, from Period 0 to Period 1. It is only the NPs who are being treated, as the FPs were already on some form of fixed fee funding system (albeit fixed fees that were tailored to the average costs of each firm). The FPs are effectively a control group.

Between Period 1 and Period 2 the analysis can be thought of as heterogenous treatments analysis. Both NP and FP providers experience the same treatment, the move from the 'unified' contract to the 'standard' contract and I am testing if the effect of that change is different between the two groups. There is no control. There are several reasons that I might expect NPs and FPs to behave differently, as discussed in section 4.1.

The main estimating equation is of the following form:

$$Y_{ijt} = \alpha + \beta_1 P_{1t} + \beta_2 P_{2t} + \gamma_1 P_{1t} NP_j + \gamma_2 P_{2t} NP_j + \delta X_{it} + \eta Z_r + NP_{dum} + \varepsilon_{ijt}$$

Y_{ijt} is one of the characteristics of interest. As set out above these are (i) average time taken (ii) very short cases.

The outcome is defined as for client i with provider j at time t in region r.
X_{it} is a vector of client control variables which include the age, gender and disability of the client, as well as the type of case.
Z_r is a vector of regional controls that include the region and urban classification of the provider.

NP_{dum} is a dummy variable that takes the value of 1 if the firm is a NP provider.

β_1 and β_2 are the coefficients on the dummies of the two contract changes (2007 and 2010) and whether the firm is FP. So, β_1 is the change in FP behaviour after the introduction of the Unified Contract. FP firms already had a fixed fee so this was not such a large change as it was for NPs. β_2 is the change after the introduction of the Standard Contract in 2010 for NP firms.

γ_1 and γ_2 are the coefficients on the interactions of the two contract changes (2007 and 2010) and whether the firm is NP. So γ_1 is the differential change after the introduction of the unified contract for NP firms relative to FPs. This can be thought of as a '*Difference-in-Difference'* estimator as it shows the effect of the introduction of fixed fees on the behaviour of NP providers, using FPs are a control, since FPs were already facing a form of fixed fees (tailored fixed fees). γ_2 is the differential change for NP firms after the introduction of the standard contract, relative to FPs. Here I am comparing the reaction of the two different types of provider to the same treatment (the new enforcements in the Standard contract). There is no control for the change between Period 1 and 2 but the research question of interest, is whether they responded to the same treatment in different ways.

The two main contract changes – the Unified Contract of 2007 (P_1), and the Standard Contract introduced in 2010 (P_2), are included as two separate periods. This means P_1 refers to any cases that were started between 1st October 2007 and 14th November 2010 and P_2 refers to cases that were started after the 15th November 2010 when the Standard Contract came into force. These are compared to (P_0) which are cases before the 1st October 2007 when NPs and FPs had different contracts. The decision was made to use the start date of cases because these dictate the payment structure, for example, NP firms were paid on an hourly rate (not the Fixed fee) for cases were started prior to 1st October 2007, even if the case was closed after 1st October

2007.

For each of the regressions run in the results, I report both OLS estimators and fixed effects, to try and establish whether the differences come from behaviour change within firms, or if the differences come from providers exiting or entering the market place. The specification that includes provider fixed effects takes the following form:

$$Y_{ijt} = \alpha + \beta_1 P_{1t} + \beta_2 P_{2t} + \gamma_1 P_{1t} NP_j + \gamma_2 P_{2t} NP_j + \delta X_{it} + u_{ijt}$$

where $u_{ijt} = \emptyset_j + \varepsilon_{ijt}$

$\emptyset_j$ are the provider level fixed effects which do not change over the composition of the sample including if the provider if NP or FP or if they are located in London or not.

I also run two additional specifications where I only include those firms who were 'survivors' for each of the time periods in the data for both the OLS and the fixed effects model.

In the analysis of the number of cases closed with '*substantive benefit*' to the client, I drop cases that were in Period 0, and make comparisons solely between the Unified Contract and the Standard Contract. This is because the outcome of the case was reported in only a small number of cases prior to the introduction of the Unified Contract in 2007. In this case the equation takes the form:

$$Y_{ijt} = \alpha + \beta_2 P_2 + \gamma_2 P_2 NP_j + \delta X_{it} + \eta Z_i + NP_{dum} + \varepsilon_{ijt}$$

This is a heterogenous treatments analysis, as both NPs and FPs were subject to the stricter KPI monitoring on outcomes in the Standard Contract. There is no control group but I comparing whether they have a different response to this change.

4.6 Results

4.6.1 Time per case

4.6.1.1 Do providers take different amounts of time on average (hypothesis 1 and 2)?

Regression results for the time taken in minutes are shown in Table 4.5. Column (1) and (2) are linear regression models, with and without controls. Column (3) is a linear regression model run only on those firms who are in the market for all three time periods (called 'surviving' firms). Column (4) and (5) are fixed effects, with controls (4) and only surviving firms (5). The controls used are gender, ethnicity and disability (as shown in the table), as well as provider size, region of provider and the urban classification of the local authority, in which the provider is located.

Comparing the time taken between NP and FP providers the biggest difference is between the amount of time taken by each provider type in Period 0. The coefficient on the NP dummy is 34 minutes. This is larger in specification 2, so taking controls into account, NPs take over 40 minutes more to deliver each case than FPs prior to the introduction of the Unified Contract. This is a very large and significant difference between providers, but some differences were expected, due to the way the two provider types were funded prior to the introduction of the Unified Contract in 2007. What is surprising is the extent of the convergence between the two provider types, as soon as the funding for NPs changes.

The 'incomplete contracts' theory predicts that due to the NDC there is a lower incentive to reduce cost on the part of NPs, which would mean they would take longer per case then FPs. This isn't observed in this data set after the contract changes and by the end of Period 2, they take very similar amounts of time. In specification 1, without controls, FPs actually take longer time (18 minutes) than NPs. This is a small difference, in terms of time, but is still statistically significant at the 5% level. Adding in controls reduces the difference slightly and FPs still take longer than NPs but by a very small amount (7 minutes).

In specification 1, the coefficients on β_1(Period 1) and β_2 (Period 2) are both positive, driven by FP providers increasing the amount of time taken per case. The increase in time that FPs

take between Period 0 and Period 1 is 16 minutes (β_1) which is small but statistically significant. FP providers then increase the time they take by a further 33, minutes between Period 1 and Period 2 (β_2- β_1) this is a large and statistically significant change.

The coefficients on γ_1 (Period 1, NP) and γ_2 (Period 2, NP) are both negative, large and statistically significant. NPs reduce the time taken relative to FPs by 41 minutes in Period 1, and 52 minutes in Period 2. The behaviour of NPs shows some similarities to FPs, in the respect that they also increase the amount of time they take between Period 1 and Period 2 by 22 minutes (see figure 4.3). However, NPs behave differently to FPs, in that that they reduce the amount of time they take between Period 0 and Period 1, whereas FPs increase the amount of time they take over both periods, in the specification without controls.

In specification 2, OLS with more controls, the size of the coefficients of the interaction terms γ_1 (Period 1, N) and γ_2 (Period 2, NP) are still large and negative being very similar to specification 1. The main difference is that the coefficient on β_1 is much smaller (now 7 minutes) and insignificantly different from zero, so the change for FP's between Period 0 and Period 1 is not significantly different from zero. The coefficient on β_2 i.e. the change between FP's between Period 1 and Period 2, is still large (38 minutes) and statistically significant.

So, in summary, FP providers do not change their time taken per case significantly between Period 0 and 1, whereas NP providers decrease the time they take between Period 0 and 1 by a large amount. This means I can **accept Hypothesis 1a. NPs providers reduce the time they take between Period 0 and Period 1 more than FP providers.**

Table 4-5. Regression results. Dependent variable: time (minutes)

	Linear Regression			Fixed Effects	
	(1)	(2)	(3)	(4)	(5)
β_1	16.256***	7.227	6.488	4.101	4.918
(Period 1)	(4.104)	(3.844)	(4.074)	(3.499)	(3.488)
β_2	49.731***	38.008***	36.497***	30.681***	32.374***
(Period 2)	(6.348)	(5.786)	(6.321)	(5.228)	(5.473)
γ_1	-41.462***	-41.057***	-38.877***	-46.407***	-44.059***
(NP_Period 1)	(7.483)	(7.322)	(8.086)	(7.121)	(7.741)
γ_2	-52.574***	-49.064***	-42.231***	-48.668***	-46.291***
(NP_Period 2)	(9.836)	(8.550)	(9.206)	(8.220)	(8.677)
NP	34.531***	41.632***	36.420***		
	(8.742)	(7.983)	(9.156)		
Ethnicity Dummy		13.012***	12.864***	4.743***	5.127***
		(2.254)	(2.742)	(0.862)	(1.007)
Ethnicity Unknown		20.437***	22.676**	7.412**	7.322**
		(5.811)	(7.030)	(2.403)	(2.816)
Female Dummy		3.688***	2.670**	2.914***	2.518***
		(0.870)	(0.854)	(0.577)	(0.639)
Female Unknown		-15.660***	-19.497***	-14.123***	-15.464***
		(3.039)	(3.506)	(2.428)	(3.023)
Disability Dummy		26.858***	28.418***	22.272***	22.821***
		(1.752)	(2.161)	(0.889)	(1.081)
Disability Unknown		10.160*	9.481	-2.595	-3.354
		(4.347)	(5.033)	(2.650)	(2.928)
_cons	168.412***	119.843***	122.553***	188.945***	190.765***
	(4.930)	(8.709)	(12.821)	(2.799)	(3.171)
N	677517	677517	514030	677517	514030
Controls included:	N	Y	Y	Y	Y
R^2	0.0108	0.0444	0.0477	within = 0.015; between = 0.011; overall = 0.008	within = 0.0158 between =0.0043 overall = 0.0094
Number of Groups				1,484	470

Standard errors in parentheses; clustered at the provider level; * p<0.05, ** p<0.01, *** p<0.001

An explanation for both provider types having a greater increase in time taken between Period 1 and 2 compared to Period 0 and 1, is that in Period 2 they were subject to a Key Performance Indicator (KP4), which specified a minimum amount of time, on average, providers should take per case. This may have stopped both provider types from reporting very short case times.

The FE models have very similar results as the OLS results. All of the coefficients are the same sign. For the FP providers, the values of the coefficients in the FE are very slightly smaller than those in the OLS. For example, the coefficient on β_2 (Period 2) is 36 minutes in specification 3 but is 32 minutes in specification 4. So consequently, within providers there is a smaller increase in time taken between Period 1 and Period 2 than occurred in the marketplace as a whole. A large number of FP providers exited the marketplace between Period 1 and Period 2 and this means that some of those FP's exiting the market place were the ones who took very short amounts of time. Nonetheless, the major drive of behaviour is within-provider change.

For NP providers, like FP providers, overall the FE and OLS specifications are fairly similar overall which indicates most change comes from within providers. Nonetheless, in contrast to FP providers, the size of the coefficients in the FE model are greater in magnitude for period 1 than they are in the OLS. For example, on γ_1 (Period 1 and NP) the coefficient is -39 in the OLS specification 3 compared to -44 in specification 5. This implies that the within firm change for 'survivor' firms is greater than change between different firms. The entrance and exit of NP firms is much more stable than FP firms, nonetheless, there was some entry of NP firms in Period 1 (69 firms entered) and this suggests they took a shorter time on average than the NP firms who had also been in the market in Period 0. This is to be expected as NP firms who entered in Period 1 will have started under the fixed fee funding scheme and never been paid for their work by hour as was the case for NPs during Period 0.

In summary, in Period 0, when they were funded differently NPs and FPs took very different amounts of time. As soon as the unification of contracts took effect, NPs and FPs respond in very similar ways to the fixed fee system, when looking only at the mean. This shows a story of convergence, rather than divergence, and from specification 2 when client and regional controls are used, the mean amounts of time spent, by both NPs and FPs, are not statistically different from each other.

This means **I can reject hypothesis 1b, NP providers do not take a longer time in Period 2 than FP providers.** NPs only take longer in the first time period when they were funded differently, they take less time on average than FPs in Period 1 and Period 2.

The average time can disguise some differential behaviour between providers that affects their distribution of cases. The density plots in Figure 4-2 show differences in the distribution of NP and FP cases. These are taken from a data set collapsed by provider. In each case, although clearer for Period 0 and 1, FP providers have a distribution shifted over the left of NPs, so they have more very short cases.

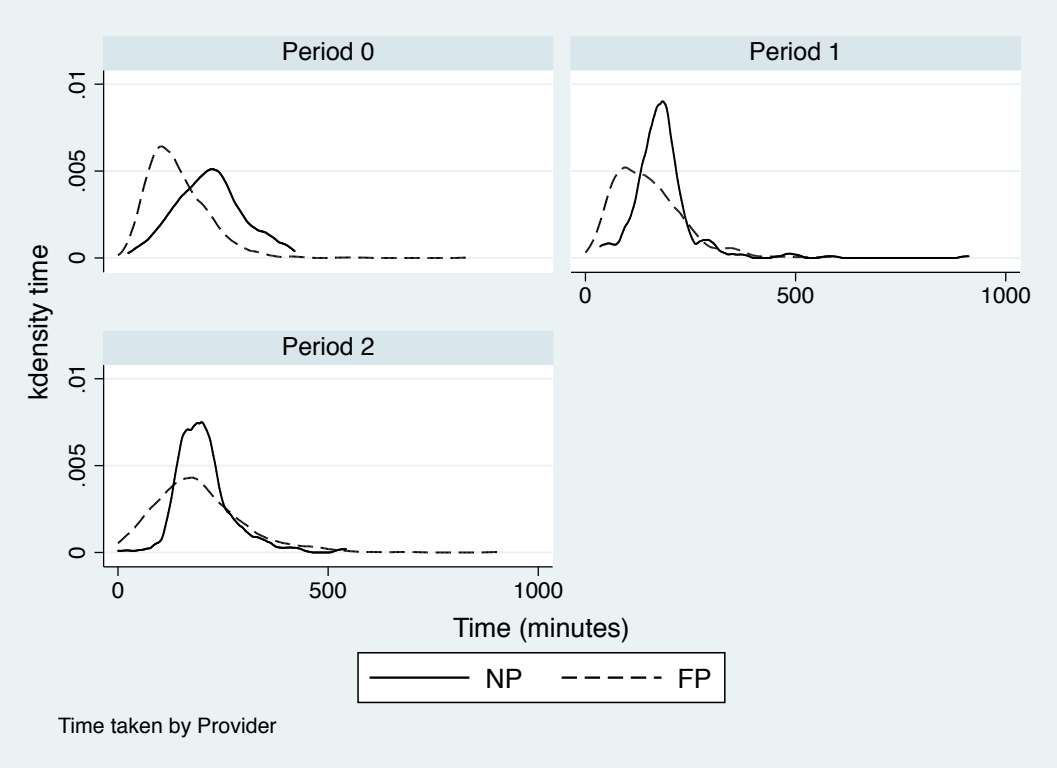

Figure 4-2: Time taken in each period

This indicates that FPs increase the number of shorter cases they take on, over the course of the contracting period, whilst the average overall time for FPs increases. This could be an indication of providers gaming the contracts, by taking on cases and closing them very early, thus, making a larger profit on these cases.

As long as these are balanced alongside some longer cases, this will not show up in their average advice time. The graphs below highlight the differences, between the mean time and the amount of very short cases. This is discussed in more detail in the next section.

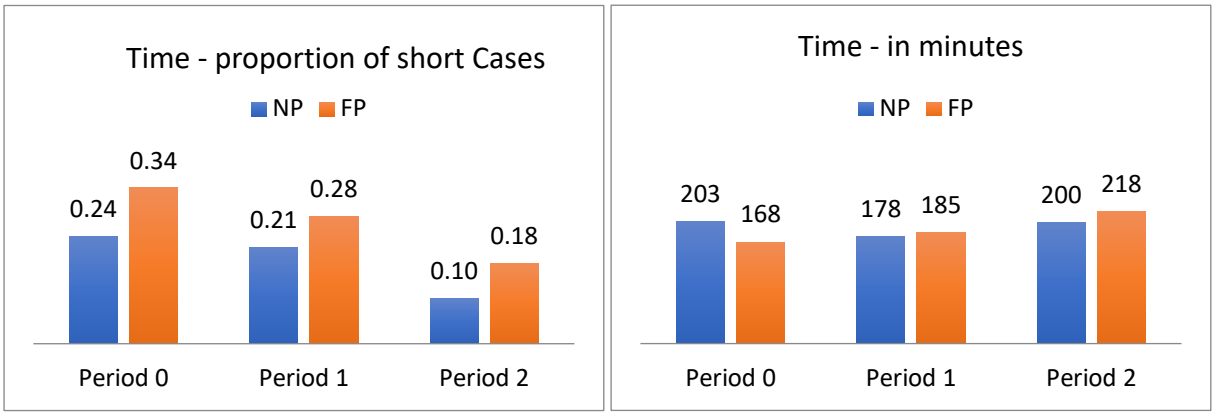

Figure 4-3: Graphs showing different indicators of time taken by providers

4.6.1.2 Hypothesis 2: Do FP providers close more cases in a very short amount of time compared to NP firms?

The regressions in Table 4.6 show regressions with the dependent variable that time is very short (defined as less than 90 minutes). The fixed fee threshold is approximately 213 minutes, or around 3.5 hours. Therefore, these are cases that are taking less than half the amount of time allocated to them. It is conceivable that these providers are extremely efficient but it seems unlikely that good quality advice can be provided in such a short amount of time. Providers who consistently report such short cases will be making very large profits (unless they balance them with lots of very long cases). It is surprising that so many cases end in such a short time period, since there is a KPI to try and guard against early closing of cases. This was introduced in 2007, but was only monitored from 2010, which may be one of the reasons why the number of these very short cases began to fall. The KPI is that cases should not end in time less than 20% of the fixed fee margin, and in this study, I am looking at cases a lot shorter than that.

Table 4-6. Regression results. Dependent variable: Very short time

	Linear Regression			Fixed Effects	
	(1)	(2)	(3)	(4)	(5)
β_1	-0.064***	-0.042**	-0.033**	-0.033*	-0.028**
(Period 1)	(0.015)	(0.015)	(0.011)	(0.015)	(0.010)
β_2	-0.165***	-0.138***	-0.124***	-0.120***	-0.120***
(Period 2)	(0.020)	(0.017)	(0.015)	(0.015)	(0.014)
γ_1	0.038	0.036	0.027	0.049	0.033
(NP_Period 1)	(0.028)	(0.029)	(0.029)	(0.027)	(0.027)
γ_2	0.027	0.016	0.005	0.040	0.028
(NP_Period 2)	(0.030)	(0.028)	(0.029)	(0.028)	(0.029)
NP	-0.106***	-0.104***	-0.081**		
	(0.029)	(0.029)	(0.029)		
Ethnicity Dummy		-0.027***	-0.024***	-0.005*	-0.005
		(0.006)	(0.007)	(0.002)	(0.003)
Ethnicity Unknown		-0.021	-0.022	0.006	0.007
		(0.017)	(0.019)	(0.007)	(0.008)
Female Dummy		-0.016***	-0.012***	-0.012***	-0.011***
		(0.003)	(0.002)	(0.002)	(0.002)
Female Unknown		0.034**	0.044***	0.034***	0.033**
		(0.011)	(0.012)	(0.008)	(0.010)
Disability Dummy		-0.052***	-0.053***	-0.040***	-0.039***
		(0.007)	(0.008)	(0.003)	(0.003)
Disability Unknown		-0.021	-0.015	0.009	0.011
		(0.013)	(0.016)	(0.008)	(0.010)
_cons	0.344***	0.462***	0.452***	0.276***	0.269***
	(0.020)	(0.031)	(0.042)	(0.010)	(0.010)
N	677517	677517	514030	677517	514030
Controls included:	N	Y	Y	Y	Y
R^2	0.0293	0.0499	0.0496	within = 0.0131; between = 0.0903; overall =0.0143	within = 0.0159; between = 0.0787; overall =0.0165
Number of Groups				1,484	470

There are five specifications. Column (1) and (2) are linear regression models, with and without controls. Column (3) is also a linear regression model run only for those providers who are present in all three time periods ('survivor firms'). Columns (4) and (5) are fixed effects, with controls and then only on 'survivor firms'. I also ran the margins at the means, after a logistical regression, which gave very similar results, but I have not included these, because research suggests that the interaction term is estimated poorly in nonlinear models (Ai and Norton, 2003). The controls used are gender, ethnicity and disability, provider size, region of provider and the urban classification of the local authority, in which the provider is located.

The coefficient for NP is negative, large and significant, so NPs are less likely to have very short cases in Period 0. The results in this regard are similar to those for average time. The longer time taken by NPs in Period 0, is consistent with them being funded differently in this time period. Unlike in the average time per case, the coefficients on γ_1 (Period 1, NP) and γ_2 (Period 2, NP) are small and not statistically significant. NPs do not change the proportion of very short cases they take on over the course of the contracting period in a different way to FPs. NPs reduce their average time per case a lot more compared to FPs, between Period 0 and Period 1, but they do not increase the number of very short cases they complete. This means there is not convergence between providers on this measure. NPs start off reporting less of these very short cases, and while FP providers reduce the amount of these very short cases they complete, NP providers also reduce the amount of cases they complete, so there are still large and statistically significant differences at the end of Period 2.

In column 1 the coefficients on β_1 (Period 1) and β_2 (Period 2) are both negative, driven by FP providers reducing the amount of very short cases they close over the contracting period. The size of the coefficient of β_2 is greater in magnitude (-0.165) than β_1 (-0.064), but in both cases the coefficient is statistically significant. The greater change in Period 2 (β_2) is consistent behaviour with providers reducing the number of very short cases they complete when the Key Performance (KP4) is more strictly monitored.

In specification 2, OLS with more controls gives very similar results. The size of the coefficients of the interaction terms γ_1 (Period 1, NP) and γ_2 (Period 2, NP) are still small and not significant, and so are very similar to specification 1. The main difference is that the coefficient on β_1 is now very slightly smaller but is still significant. The coefficient on β_2 i.e.

the change between FP's between Period 1 and Period 2 is still large (-0.138) and statistically significant.

The FE models have very similar results as the OLS results. All of the coefficients are the same sign, and amounts are similar although the values are slightly lower in magnitude in the FE models for β_1 and β_2. So, for example, the coefficient on β_1 (Period 1) is -0.033 in the OLS, specification 3, but is slightly smaller at -0.028 in the FE model. The similarity between the FE results for survivor firms and the OLS results suggests that most of the behaviour change took place within firms.

This adds some nuance as to how providers behave in regard to time taken. NPs take less time than FPs on average, but this hides a feature of FP providers, that they close a greater proportion of cases in a much shorter time than NPs. The volume of cases closed in such a short amount of time causes some concern, because they fail to satisfy one of the KPI indicators in the contract, that cases should not fall under 20% of the fixed fee margin. In the guidance on reporting controlled work, the LSC state that they will "*monitor the relationship between average case costs and the fee paid through management information and raise concerns with providers where the management information shows significant variances*" (Legal Services Commission 2010).

Overall, this means I can **accept Hypothesis 2. FP providers report more cases closing with a very short amount of time compared to NP firms in every time period.**

4.6.2 Outcomes

4.6.2.1 Hypothesis 3: Do NP providers report more cases closing with an outcome of substantive benefit compared to FPs?

The regression results in Table 4.7 have '*substantive benefit*' as the dependent variable. This takes a value of 1 if the case closes with an outcome that is defined by the Legal Services Commission as being positive to the client. As discussed at greater length earlier in this chapter, and also in the previous chapter, there are some limitations to this approach and it essentially just splits cases up, into those which have been completed, and those which have not.

There are five specifications; column (1) and (2), are linear regression models, with and without controls. Column (3) is a linear regression model which includes only those firms who were present in both Period 1 and Period 2 (i.e. 'surviving' firms). Column (4) is a fixed effects model with controls. Column (5) is the fixed effects model only for surviving firms.

The controls used are gender, ethnicity and disability, provider size, region of provider, and the urban classification of the local authority, in which the provider is located. I have dropped all cases that took place before the Unified Contract (i.e. Period 0) because outcomes were not consistently reported in Period 0 so there were many missing values. This means I am only comparing results and behaviour change between Period 1 and Period 2, and looking for heterogenous response to the policy change between NP and FP providers.

A control for the time taken per case is also included, so this can be thought of as an efficiency measure as it captures the outcome achieved taking account of the amount of time it took. Surprisingly, time is not significant in any of the specifications, implying that getting a 'good' outcome does not take any longer than getting one that is not considered by the commissioner to be good.

The coefficient on the NP dummy variable is large and significant, and is consistent across all of the regression specifications, with NP providers more likely to close cases with '*substantive benefit*' to the client in Period 1. In specification 1, the coefficient on β_2 (Period 2) is positive and statistically significant (0.040) with FP providers increasing the number of cases they close with a positive outcome for clients between Period 1 and Period 2. The coefficient on β_2 (Period 2) is similar (0.043) in specification 2, which includes controls for client characteristics, region and time taken on the case.

In specification 1, the coefficient on γ_2 (Period 2, NP) is negative but is very small and not statistically different from zero (-0.002). In specification 2 the coefficient on γ_2 (Period 2, NP) is also small at 0.011, and therefore, is also not statistically significant. NPs do not change the proportion of outcomes they report that are positive for the client in any differential way to FPs between period 1 and period 2.

Table 4-7. Regression results. Dependent Variable: Outcome of substantive benefit

	Linear Regression			Fixed Effects	
	(1)	(2)	(3)	(4)	(5)
β_2	0.040***	0.043***	0.023*	0.012	0.013
(Period 2)	(0.011)	(0.011)	(0.010)	(0.008)	(0.008)
γ_2	-0.002	0.011	0.022	0.020	0.020
(NP_Period 2)	(0.014)	(0.013)	(0.013)	(0.012)	(0.012)
NP	0.153***	0.119***	0.104***		
	(0.013)	(0.013)	(0.014)		
Time (hours)		0.002	0.001	0.002	0.001
		(0.001)	(0.001)	(0.001)	(0.001)
Constant	0.624***	0.555***	0.567***	0.702***	0.709***
	(0.011)	(0.019)	(0.021)	(0.005)	(0.005)
N	442958	442958	377568	442958	377568
				within = 0.0013;	within = 0.0014;
				between = 0.0478;	between = 0.0703;
R^2	0.0310	0.0457	0.0431	overall = 0.0070	overall = 0.0060
No. of groups	n/a	n/a	n/a	1,314	585
Controls					
included:	N	Y	Y	Y	Y

Dependent variable is dummy variable that takes a value of 1 if the case was closed with the provider reporting an outcome that is defined as being of 'substantive benefit' to the client by the LSC. Standard errors in parentheses; * p<0.05, ** p<0.01, *** p<0.001

This means both providers increase the amount of cases they report outcomes of '*substantive benefit*' between Period 1 and Period 2. There is not, however, convergence between providers, because NP providers were starting from a higher base level. At the end of Period 2, there are still large and significant differences between providers. NP close over 80% of all cases with '*substantive benefit*' compared to FP providers closing 66% of their cases with *'substantive benefit*' (see figure 4.4).

This means **I can accept Hypothesis 3 that NP providers will report more cases closing with an outcome of substantive benefit to the client compared to NPs in Period 1 and Period 2.**

The coefficient on β_2 in the FE models only on the surviving firms (specification 5) is smaller in magnitude, and not statistically significant (unlike in the OLS where it was statistically significant). There are 585 providers who are 'survivors' are present in the sample in both period 1 and period 2. A large number of providers exited the marketplace at the end of period 1, mostly FP firms. These results show that most of the increase in outcomes of '*substantive benefit*' by FP providers does not come from individual firms changing behaviour, but instead from FP providers who were reporting fewer outcomes of '*substantive benefit*' exiting the market. The coefficient on γ_2 in both of the FE specifications is small and not statistically significant (so it is the same as in the OLS).

4.6.2.2 Substantive benefit with the more gameable outcome removed (hypothesis 4a and 4b)

The Legal Services Commission set a KPI for providers, on the number of cases they should close, with '*substantive benefit*' to the client. Both provider types have a proportion of outcomes of substantive benefit, which is much higher than the 40 per cent requirement set out in the KPI. NPs perform better than FPs, but FPs also perform well, and so, if this was the sole measure used to assess quality, it appears that increasing the time pressures in the contract, has *not* negatively affected quality, because both providers improve. This measure, however, is a little optimistic in how it defines positive outcomes, and contains a range of different outcome codes.

Of these outcome codes, the one that several commentators (Balmer *et al.* 2012; Citizen's Advice 2010) have argued demonstrates less '*tangible outcomes*' for the client is the code that the '*client advised and enabled to plan and/or manage their affairs better*' (shortened to '*plan better*'). While it is very possible that good quality advice can end with this outcome code, this code is susceptible to gaming, as it is relatively easy for providers to report this outcome code, without them doing much work for the client. In Table 4.8, the dependent variable is the same as in Table 4.7, with the only difference being that cases that have ended with the outcome code '*plan better*' are no longer included in the definition as being of '*substantive benefit'*.

There are several interesting features about Table 4.8, in comparison to Table 4.7. Firstly, the size of the coefficient on the NP dummy is a lot smaller at 0.057, which is less than half the

size of Table 4.5 (0.153). It is still statistically significant, but this time is only significant at the 5% level, less than in Table 4.7. NPs still do better than FPs on outcomes but the difference is much narrower when the outcome code '*plan better*' is excluded. I can therefore **accept Hypothesis 4a that NPs achieve more cases of substantive benefit when the more tangible outcome code is removed compared to FPs.**

Table 4-8. Regression results. Dependent variable: Outcome without 'plan better'

	Linear Regression			Fixed Effects	
	(1)	(2)	(3)	(4)	(5)
β_2	-0.013	-0.026*	-0.027*	-0.030***	-0.030***
(Period 2)	(0.013)	(0.011)	(0.012)	(0.008)	(0.008)
γ_2	0.023	0.027	0.028	0.025*	0.025*
(NP_Period 2)	(0.025)	(0.017)	(0.018)	(0.011)	(0.011)
NP	0.057*	0.039*	0.050*		
	(0.024)	(0.017)	(0.020)		
Time (hours)		0.032***	0.031***	0.035***	0.034***
		(0.002)	(0.002)	(0.001)	(0.001)
Constant	0.392***	0.442***	0.443***	0.306***	0.311***
	(0.013)	(0.027)	(0.029)	(0.005)	(0.005)
N	442958	442958	377568	442958	377568
R^2	0.0043	0.0520	0.0552	within = 0.027; between= 0.009; overall = 0.019	within = 0.027; between=0.001; overall = 0.019
No. of groups	n/a	n/a	n/a	1,314	585
Controls included:	N	Y	Y	Y	Y

Dependent variable is dummy variable that takes a value of 1 if the case was closed with all outcome codes that are defined of being of 'substantive benefit' to the client without the outcome code 'plan better'. Standard errors in parentheses. * p<0.05, ** p<0.01, *** p<0.001

Secondly, this time, the coefficient on β_2 is negative. It is not significant and a very small value in specification 1 (without controls), and is still small and negative, but just statistically significant, at the 5% level in specification 2. This means that when '*plan better*' is excluded, there is no improvement in outcomes between Period 1 and Period 2 by FP firms. Unlike the

results from table 4.7 that FPs improve between Period 1 and Period 2, now FPs do slightly worse on outcomes between Period 1 and Period 2. This means that all of the improved outcomes that are observed in Table 4.7 are driven by both NP and FP providers increasing the number of cases they close with the outcome '*plan better*'. The results for the FE specifications are nearly identical to those for the OLS with controls for β_2 which suggests that for FP providers those who stay in the marketplace may not be better quality than those who exit, they are just more likely to report the tangible outcome code 'plan better'.

The coefficient γ_2 is positive, but small and not significant, for the OLS results and is statistically significant, at the 5% level, in the fixed effects model. This suggests that NP firms who are 'survivors' make small improvements, compared to FPs, over the contracting period. In contrast, the FP firms who stay in the marketplace reduce their performance on the outcomes measure in table 4.8. I can therefore **accept Hypothesis 4b: FPs reduce the number of cases they close of substantive benefit with the more tangible outcome code removed, between Period 1 and Period 2, compared to NPs.**

The third difference between tables 4.7 and 4.8 is that it is only in table 4.6 that the control for the time taken per case is statistically significant. This supports the use of the category for outcomes of substantive benefit used in 4.8, because by omitting the more tangible outcome code, it now takes longer to achieve the positive outcomes which is what one would intuitively expect.

In summary, if I do not include '*plan better*' as an outcome that is of substantive benefit then neither FPs nor NPs demonstrate an improvement in the outcomes between Period 1 and Period 2 by any significant amount. NPs have a higher proportion of better outcomes than FPs, so as both type of providers do not change behaviour between Period 1 and 2 there is no convergence of outcomes, and this difference is maintained. The only differential response is that FPs report '*plan better*' more frequently between Period 1 and Period 2, compared to NPs, which is what drives the improvement of FPs, on the outcomes that were shown in Table 4.7.

The graphs below, compare the two ways of disaggregating outcomes of substantive benefit. They show that when '*plan better*' is excluded there are no significant improvements for either provider type on outcomes. It is also the case that if '*plan better*' were not considered to be an outcome code, which is worthy of inclusion in the group of outcomes that are defined as

'*substantive benefit*' to clients, then FP providers would not be meeting the Key Performance Indicator, introduced in 2007, that 40% of cases should close with a positive outcome for clients.

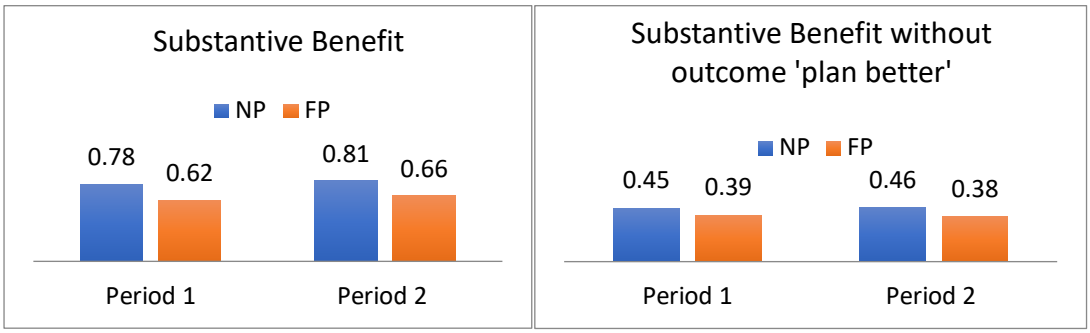

Figure 4-4. Graph of outcomes

4.6.3 Robustness Checks

In using this methodology, I am assuming that both NP and FP providers were subject to common trends, and that they were not differently affected by changes other than those changes made to the contracts in 2007 and 2010. This time period was over the same period of the 2008 financial crisis, which led to increases in the demand for advice (Ministry of Justice 2009).

It is possible that NP providers may have been affected differently by the increase in demand for advice for several reasons. Firstly, some types of advice saw bigger increases than others. A Ministry of Justice (2009) report tracked the type of query on a telephone helpline, following the period after the crisis of 2008 as compared to the year before, and there were bigger increases in calls in debt (39%) and welfare benefits (47%) than in housing (14%). NPs conduct more debt and welfare benefits cases, as a proportion of their caseload, than housing advice, compared to FP providers, and the response to this large increase in demand in other types of work may have had an effect on the quality of the housing advice they provide. Secondly, in the wake of the financial crisis, more people with housing problems may have accessed NP providers. Patel et al (2008) found evidence that NP providers such as the CAB have a degree of '*brand recognition*' and are better known. This could mean that people experiencing a problem for the first time may have sought help at a NP rather than a FP firm.

The 2008 financial crisis also led to a decline of other available sources of funding providers rely on, but again, this may have effected NPs and FPs differently. For NP providers, who are

more reliant on grant funding, alongside the contracts examined here, the effect may be greater, since there has been a reduction in many of the grant funding available, due to the austerity policies pursued after the crisis. Private solicitors may have also faced a fall in revenue, but for different reasons. The recession led to a fall in the demand for some types of private legal work which forms the bulk of revenue in many FP firms. The Legal Services Board (2016) reported a greater than 20% reduction in the demand for some legal services, such as residential conveyancing transactions, re-mortgages and divorces in the period after 2008.

A second issue is whether there are spillover effects of the contract changes in outcomes that are not recorded here. Grabowski and Hirth (2003) argue that the very existence of NP providers in a marketplace, has positive spillover effects on the market, as a whole. There are several ways that the work of NPs may have positive spillovers, some of which are explored in more detail in Chapter 3. NP providers are located in community settings, and are often accessed by people who have less knowledge of their legal rights. NPs also do policy work and campaigning, which may benefit all providers of legal aid work. None of these attributes are measured in the performance standards. Even those measures that are assessed in the performance standard, such as the outcomes of the case, capture very minimal information about each case, and so as a consequence, miss some attributes of quality, longer-term outcomes and the client experience. This is particularly important, given the theory in economics is based on the idea that NPs will do better on non-contractible quality.

As a robustness check, to try and establish if the changes identified during the break of the Unified Contract and Standard Contract are attributable to those contract changes, I run some additional tests on outcomes that I wouldn't expect to be affected by the contract changes, such as the gender of the client. Women access advice services than men, but there is no major difference between the time taken per case and the gender (unlike for disability and ethnicity). Thus, there is no particular reason why the gender case mix should change over the contract. I have run the same specification (see table 4.9 in the appendix) with gender as the dependent variable, and there is a very small but just significant negative coefficient on β_1 and γ_1 but no significant results for any of the other parameters of interest (β_2 , γ_2) in specification 1, and there are no significant results for any of the parameters in specification 2 with controls included.

4.7 Conclusions

In this paper I tested for differences in the behaviour of NP and FP providers of Legal Aid before during and after a large reform to the funding of the service. I compared NP and FP providers on the time taken and the outcomes achieved, and I looked at whether any unique features of NP providers were maintained in a more competitive funding environment.

I find that there are large differences in the average (mean) amount of time providers taken per case in the first time period, with NPs taking a lot longer on average than FPs, but these differences are completely eliminated by the end of Period 2. This is not consistent with some economic theories which predict NPs would respond less strongly to the cost pressures in the contracts to reduce average time. There is convergence of time taken between providers, and no differential response between NPs and FPs on average time.

The story is different when looking at how cases are distributed. FP providers, despite having a higher average time, close a larger share of very short cases compared with NP providers. Both provider types reduce the share of these very short cases, between Period 1 and Period 2, which may be a response to stricter monitoring of a performance standard, stipulating cases should not be completed in such a short time period. Nonetheless, there is still a considerable difference between the two provider types on this measure at the end of Period 2, which suggests that FPs are adopting a gaming strategy to profit maximise in a way that most NPs are not.

The time that providers take to complete cases must be considered alongside the outcomes they are achieving. If time is reduced per case, but positive outcomes are maintained, then this would be seen as an efficiency improvement. Like many other public services, it is very difficult to measure the quality of advice. The only measure I have available is the data on outcomes reported, as part of the monitoring data. Using this measure alone I find support for the theory that NPs are higher quality because NP providers close a much larger share of cases, with an outcome code, defined by the commissioner, as benefiting the client.

I then disaggregate the outcomes data in a different way to how it is assessed by the commissioner and take out one of the outcome codes. The code I take out is one that has been

described as demonstrating less '*tangible*' benefits than the other outcome codes (Balmer et al. 2012). When this outcome code is no longer included, there are no improvements in outcomes by FPs over the course of the contracting period. All of the changes come from providers being more likely to report the most gameable outcome measure. NPs are similar to FPs, in that they also increase the frequency this outcome measure is used, over the contracting period, but they still close more cases with positive outcomes, compared to FPs.

These results flag up some issues with how quality is reported in these contracts. All providers seem to have improved the outcomes they delivered for clients. However, these recorded improvements in outcomes are solely driven by providers increasing the number of times they use the very ambiguous outcome code that the client has been able to '*plan better*', rather than more clients having the more substantive tangible outcomes of retaining their home or being rehoused. This, alongside the large number of cases that are closed within a very short time period, raises concerns that the quality of advice being delivered by some providers (both FP and NP) may be very low, and that this has been poorly monitored.

These results have significance for a wide variety of public service areas, who outsource and fund their providers through a fixed fee mechanism. It raises some concerns about efforts to increase the diversity of providers of public services through competition. While it is true that the reforms did encourage more NP provision of Legal Aid advice, the NP providers ended up converging in behaviour, on some measures, to the FP providers they were competing with. This is without considering the effects on some of the more mission drive activities that NPs carry out, such as policy or campaigning work, or any other innovations that are not a part of the contracts.

4.8 Appendix to chapter 4

Table 4-9. Robustness check. Dependent variable: Female dummy

	Linear Regression	
	(1)	(2)
Period 1	-0.010**	-0.002
	(0.003)	(0.004)
Period 2	-0.010	-0.000
	(0.010)	(0.007)
NP_Period 1	-0.012*	-0.003
	(0.006)	(0.006)
NP_Period 2	-0.013	-0.005
	(0.012)	(0.009)
NP	-0.001	0.010
	(0.011)	(0.009)
N	585272	585272
Controls included:	N	Y

Standard errors in parentheses

* p<0.05, ** p<0.01, *** p<0.001

Table 4-10. Outcome codes for housing legal aid

Code	Outcome Description	Substantive Benefit?
HA	**Client receives damages or property** Any lump sum payment to client including any paid in reduction of rent. Any property right successfully asserted.	Y
HB	**Client receives new or increased periodical payment** (*not used after 1 April 2013 – HA used instead)*	Y
HC	**Client receives damages or property and new or increased periodical payment** *(not used after 1 April 2013 –HA used instead)*	Y
HD	**Sum owed by client to a third party is reduced or is less than claimed** A lump sum claim by a third party is successfully defended or the amount payable is less than claimed.	Y
HE	**Liability of client to make regular payments is reduced or is less than claimed** A claim for a periodic amount by a third party is successfully defended or the amount payable is less than claimed.	Y
HF	**Client housed, re-housed or retains home** Applies only where possession or re-housing is in issue.	Y
HG	**Repairs or improvements to the client's home** Work done on the home or furniture/fixtures installed or improved.	Y
HH	**Opponent/other party action benefits client** Third party takes action.	Y
HI	**Opponent/other party action prevented** Third party is dissuaded from taking action (other than possession cases).	Y
HJ	**Opponent/other party action delayed** Extra time is gained – commonly in possession cases or rent payments are rescheduled.	Y
HK	**Client secures explanation or apology** Following a complaint or query of some kind to a third party.	Y
HL	**Client advised and enabled to plan and/or manage their affairs better** Applies where, as result of your advice or assistance, the matter for which advice was sought concludes and your client is better able to plan or manage their own affairs in future.	Y
HM	**Matter concluded otherwise** This should only be used if there is no outcome of the most significant legal issue in the case which is covered by one of the above categories.	N

	Matter now concluded	
HU	**Matter stopped on advisor's recommendation** Matter stopped on the basis of advisor's opinion that continuation does not justify continued public funding (includes unfavourable opinions from experts or informal advice from counsel).	N
HV	**Matter proceeded under other Civil Legal Aid** Includes full or investigative representation certificates.	N
HW	**Client referred to another organisation** Includes referrals about the same matter to other solicitors, charities or special interest groups and support services etc. Does not cover referral of different but connected cases.	N
HX	**Client advised and taking action themselves or with the help of a third party - 3**Applies where you advise that you are unable to assist but the client carries on by themselves or with help from others.	N
HY	**Client advised and third-party action or decision awaited** Applies where the client has sought advice and assistance before third party action has been taken or decision received.	N
HZ	**Outcome not known/client ceased to give instructions** Applies where a case has ended because the client has failed to give instructions, withdrawn instructions, or the matter has been ended for other reasons before the outcome is known.	N

Table adapted from: Legal Aid Agency (2018)

5 Actions speak louder than words? Time inconsistency in pro-social behaviour

Abstract

This chapter looks at the effect of asking people to declare their intentions in advance of taking part in a pro-social activity. People were asked, in one of two ways, whether they would like to take part in a project in the future. One group was asked to make a commitment to sign up in the future and another group was asked if they would like to take part in the future, compared to a control group that was not asked about future participation. It was found that even though both treatment groups showed a high level of interest in taking part, the level of reneging was high. A very small number of people actually signed up for the project and there was no significant effect of either treatment on the probability of participation. Asking people to commit to participate in a future pro-social activity might allow them to feel good about themselves and provide a way out from saying no immediately; however, if the cost of reneging is low, there is little effect on the level of participation.

5.1 Introduction

There are several features that distinguish charitable giving from spending money on goods for personal consumption. If you go out for a meal, most of the utility comes from when you actually consume the food. For most people, giving to charity is very different. Most people do not check how the money they donate is spent. So, if they are donating money for meals for homeless people their utility is not linked to when these meals are consumed. Many people feel good about the act of giving, rather than the outcome of giving (see Andreoni 1990 for a fuller discussion). This can mean that people can even start to feel good about giving when they make the decision to give and feel some 'joy of giving' (Andreoni *et al.* 2015) before they part with their money.

A second feature of giving is that, while it has shown to increase people's wellbeing (Anik *et al.* 2009; Dunn *et al.* 2008) and is an activity that many aspire to do, it comes at the cost of personal consumption. Like many other activities that are considered worthy and require sustained commitment, for example, saving, or going to the gym, it can be put off for the future. In certain cases, people are subject to self-control issues and they end up spending the money they intended to give on other things.

Several studies have shown that charities can develop a strategy that takes these two factors into account to increase donations by separating the time a gift is asked for and the time the money is taken (Breman 2011; Andreoni and Serra-Garcia 2017). This strategy can help people with self-control issues to overcome their present bias and fulfil their desire to give.

The challenge with this strategy, which poses an ethical dilemma for charities, is that it exposes people who do not want to give to unwanted social pressure. They may agree to give due to the social pressure and then regret the decision later (Andreoni and Serra-Garcia 2017). An individual who has agreed to give may feel bad for going back on his or her word if they want to change their mind later (Festinger 1957; Bator and Cialdini 2000). Several studies have highlighted that despite this pressure there is a time inconsistency in people's decision to give; they often commit to donate in the future but renege this promise when the decision is *not* binding (Andreoni *et al.* 2015; Cotterill and Richardson 2012; Fosgaard and Soetevent 2018).

This paper tests the effect of asking people in advance to take part in a pro-social activity. It builds on the two theoretical ideas outlined above. The first is the concept of intertemporal preferences. If people are asked to do something in the future, they may experience present bias and be more likely to agree to do it because the future seems far away. The second is to do with the benefits and costs associated with agreeing to give in the future. People may get a '*warm glow*' (Andreoni 1990) from saying yes, but if they renege they also experience some '*harm*' or disutility by failing to follow through on an action they committed to. Unlike many other studies, where they are asked to give by a fundraiser, people are asked to give in private through an online survey. This reduces the social pressure to sign up while still offering people the opportunity to state whether they intend to participate or not.

The design of the experiment draws on previous research regarding time inconsistent preferences in relation to charitable giving, such as the '*Give More Tomorrow*' (GMT) design

by Breman (2011) in which there are two time periods and payments are taken in the second time period. Unlike the GMT design, participants were asked to take part in a new project rather than increase the donation they were already making. Another difference is that in GMT participants signed up to donate in the first period; whereas in our design, participants are only asked to commit or state their intention to sign up. This is similar to the activity used in several other experiments where people are asked to '*pledge*' in advance (see Andreoni *et al.* 2015; Andreoni and Serra-Garcia 2016).

The contribution of this paper is twofold. Firstly, it adds to the existing empirical evidence on time inconsistent behaviour in charitable giving, as many people sign up for the project but very few take part when the time comes. The second contribution is to examine the effect of asking people to make an advance commitment in relation to charitable giving. This paper presents new evidence regarding the (lack of) effectiveness of non-binding commitments regarding the probability of taking part.

The field experiment was implemented in a local authority in London alongside the launch of a charitable project. The project being launched was similar in certain regards to a Payroll Giving scheme in which the staff were asked to do something with a part of their salary; however, unlike a Payroll Giving scheme where their salary goes to charity, they were asked instead to take it in the form of the local currency (Brixton Pounds). This project is pro-social in nature because the currency is designed to support independent businesses and local charities but since people who sign up receive special offers and discounts it cannot be considered entirely altruistic. Participating in the project does impose costs on those who sign up, both in increased transactional costs and in restricting their choice of where they can spend their salary, as the Brixton Pound can be spent only in participating businesses in Brixton or donated to charities.

Prior to the launch of the project, the staff at the council were invited to take part in a survey where they were asked to state their intention to take part in the project in advance. In the survey, participants were randomly assigned to one of three groups. One group was a control group who was asked no question about future participation (T0).There were two differences between the other two treatment groups. The first group (T1) was asked whether they would like to take part and what part of their salary they thought they would take home in the local currency under the project. This will be called a '*light*' framing, as it is clear that they can

change the amount at a later stage. The second group (T2) were asked how much they would commit to taking when the project launched. This will be called a '*strong*' framing, as they were told that this information would be processed by the payroll department and the term commitment was used.

There were statistically significant differences between the survey responses of the two treatment groups. People are more likely to say they will take part, and with larger amounts, when they get the 'light' framing of the question. The '*light*' group participants agreed to give an average of £9.26 more than those in the '*strong*' group. Asking people to make a strong commitment put some people off at the initial stage or forced them to reveal that they did not want to take part. Nonetheless people in both treatment groups expressed a strong interest in taking part with 57% of the participants agreeing to sign up in the future.

The main finding is that despite such good intentions expressed by both the groups, the sign-up rates were very low. A large number of participants from both the groups reneged and neither of the treatments increased the probability of participation in the project.

At stage 2, there were some differences in the amount the participants took in the local currency. Those in the '*strong*' group took, on an average, double the amount taken by those in the '*light*' group. The difference was large with those in T2 taking £20.68 more than those in T1, however it does not remain statistically significant once the descriptive controls are considered. This suggests that the '*strong*' commitment made it harder for the participants to renege on the amount they agreed to contribute to the project when confronted with it in the sign-up form, but it was possible for both groups to avoid the sign-up stage altogether and thus avoid the reneging costs. The very small sample sizes mean that all the results from stage 2 of the project need to be interpreted with caution.

The most important conclusion for charities, or any project wishing to gauge what people are likely to do in the future, is that asking people in advance does not provide reliable answers. The high sign-up rates without any fundraiser present to exert social pressure indicates that self-signalling or self-image are important motivators in signing up. This also indicates that there may be a disconnect between how people like to think of themselves, the extent to which they like to think they support community projects, and how they actually behave in practice.

The structure of this paper is as follows: Section 2 discusses the previous literature and the basic theoretical framework used. Section 3 describes the experimental design and treatments. Section 4 outlines the results and Section 5 concludes.

5.2 Previous Literature and Framework

The experimental design used in this chapter draws on two areas of economics literature. The first is the theory on intertemporal preferences, as people are asked to take part in the project prior to the time at which the project starts. The second are theories regarding the benefits of charitable giving and the costs people face if they go back on their word, as people are asked to make a non-binding commitment to take part in the project in the future.

The theory of intertemporal preferences has been applied to giving in two distinct ways. One theory, developed by Breman (2011), proposes that individuals have self-control problems. Giving is an activity, similar to saving for retirement, that is consistent with some people's long-term goals but is easy to delay. A person may want to be altruistic and donate to charity but they put it off because it comes at the expense of personal consumption today.

Thaler and Benartzi (2004) developed a strategy to increase saving, called '*Save More Tomorrow*'. This offered employees the option to allocate some of their future earnings towards a retirement plan. They found this was a more successful way to get people to increase their savings rate, compared to when they were asked to contribute a savings scheme that started in the present. Breman (2011) developed a very similar strategy for charitable giving, it offered existing donors the option of increasing their donations at some point in the future. She found that this resulted in an increase their donations as compared to when donors were asked to increase their donations starting in the present. The treatment effect was large, 32% in the first field experiment, and 11% in the second.

A rather different theory is proposed by Dreber *et al.* (2016) who set out the idea of a dual self. This theory is similar to other papers that use a dual-self model, in which decisions are made using a combination of the short-run more impulsive self and a more patient long-run self

(Fudenberg and Levin, 2006). So far this is fairly consistent with the idea of a person who is subject to present bias. The difference in the way that Dreber *et al.* (2016) model charitable giving is that the short-run self is more altruistic compared to the long-run self, so the temptation is to give is in the present. So, the present bias tempts people towards giving in the short run, unlike in other theories (e.g. Breman 2011) where it tempts people towards personal consumption. The long-run self would prefer that the individual did not cave in to the temptation of giving and put these funds to different use. Experimental evidence from dictator games in the laboratory support Dreber *et al.* (2016) with people giving less when the payment is delayed.

Most of the theories so far focus on the idea of self-control or temptation that might stop an individual from acting according to their long-term goals. Andreoni and Serra-Garcia (2017) outlined another theory that focuses more on the idea of '*social pressure*'. They suggest that one of the reasons that makes so many people agree to donate to an activity that takes place in the future is because they find it costly to say no. They may not want to give, but they also do not want to say no to a fundraiser and this results in them saying yes to a gift now that will be transacted in the future. This means that even though the behaviour of the people may be time inconsistent, their preferences are not necessarily so, since it is the delay between the decision and the donation that reduces the cost of saying yes.

They devised an experiment similar to the '*Give More Tomorrow*' (Breman 2011) strategy but with the addition of another treatment where individuals are given the opportunity to demand commitment or flexibility over the amount they say they will give in the future. They argue that people who are aware of their own time inconsistency welcome the opportunity to commit, whereas those that are only saying yes because of social pressure will choose the option to have flexibility. They estimated that 40% of time inconsistency demonstrated by the subjects was due to social pressure and 31.7% was due to self-control. They make the case that '*self*-control problems are "cured" by commitment, while social-control problems are "cured" by flexibility' (Andreoni and Serra-Garcia 2017).

The idea of '*social pressure*' creates what Andreoni and Serra-Garcia (2016) describe as a '*moral contradiction*'. There are some fundraising strategies that might raise more money for a charity, but also leave a large number of donors regretting their decision. The option to give in the future is good for people who really want to give, as they can get a '*warm glow*' along

with a delay in the '*pain of parting with their money*' (Andreoni *et al.* 2015) and a commitment can help deal with their self-control issues. There is, however, another group of people that does not like being asked to give but says yes due to social pressure and then feel bad about the decision later.

This study tests an approach where people are asked to decide in advance to take part in a charitable project. The question is not posed directly by a fundraiser but is part of an online survey. The question is phrased in one of two ways, one can be described as '*light*' and the other as '*strong*'. Neither of the options is binding and enables people who say they will take part to be reminded of what they said they would like to do, but also offers flexibility to those who may wish to renege.

The idea behind asking for an upfront pledge is that many people deem consistency to be a valuable character trait. Along with the social pressure to donate to charity, there is a strong internal pressure amongst individuals to behave in a way that matches their own self-image (Bénabou and Tirole 2006; Fudenberg and Levin 2006; Cotterill *et al.* 2012).

A pre-existing literature from social psychology suggests that people suffer from guilt if they inflict harm on others (see Baumeister *et al*. 1994 for a review). Charness and Dufwenberg (2006) argue that people will go to lengths to avoid what can be described as '*guilt aversion*'. In their paper, they tested this theory using a principal agent game in the lab where it was found that subjects who communicated with each other had increased participation and trust. They argue that one way in which the decision makers experience guilt in this setting is if they feel that they have let others down. This could apply to charitable giving if potential donors feel that they have let the charity down by donating less than what they agreed to.

Despite this research, which suggests that people often have a strong desire to follow through on their word, empirical work on charitable pledging presents mixed results. Andreoni *et al.* (2015) concluded that a high proportion of people pledged to give when asked in advance (67%) but many of these people reneged on their pledge. They found that sending a thank you note to the people who pledged resulted in a significant reduction in reneging and increased the donation by 44%. This suggests that getting a thank you note increases the costs of reneging.

Cotterill and Richardson (2012) also found that a pledge alone did not lead to higher donations of books to a charity project, unless the pledge was combined with a '*publicity*' treatment where donors could have their names displayed in public.

There is some research that finds that pledging can actually lower the amount donated. In a lab experiment Sutan *et al*. (2018) found overall donations in the groups who were asked to pledge were lower than those who were not asked to pledge in advance. They found that people who were asked to make a public pledge stated they would give a lower amount than those asked to make a private pledge, but more people reneged on the amount they said they would pledge in the private group. They also considered the case when individuals were unsure of what their endowment would be, and found that increased uncertainty increased the amount people gave across all groups, pledge or not. This is consistent with other literature on windfall gains, which finds that they are more 'spendable' than other types of gains (see Arkes *et al*., 1994).

A paper by Kellner *et al*. (2018) also explored giving decisions when there was uncertainty about whether an individual would receive a bonus or prize. They conducted five different settings where people were asked before or after they found out whether they had some kind of windfall gain. In three of their experiments they found that people who were asked to make a donation 'before' they found out if they had won their prize of bonus donated more than those who were only asked to make a donation 'after' they found out if they had got the prize or bonus.

One reason that Sutan *et al*. (2018) argue that pledging may lower behaviour is that it may cause people to go into a 'cold-hearted' decision mode where they might give less than if they were responding more emotionally to the ask to give. Liu *et al*. (2008) explore how people respond to requests to volunteer time and give money to a charity. They found the order of the questions mattered, and subjects who were asked whether they would like to volunteer time first were more likely to actually donate money than those who were asked the question about volunteering after being asked about money. They suggest considering time first activates goals of emotional wellbeing which leads to a greater willingness to actually make a donation. A similar mechanism may explain why pledging lowers donations in some settings.

Fosgaard and Soetevent (2018) found evidence that pledging was effective in a field experiment on door-to-door fundraising. They had two treatments, a '*soft*' pledge where donors were asked to state out loud how much they would donate and a '*firm*' pledge where the solicitor wrote this amount down and signed the card which was returned to the donor to serve as a reminder of their intention. In their experiment, the rate of reneging was very high but unlike other research the pledge did increase the number of donors. Only 23% of donors followed through with a donation, but this increased to 36% with the '*firm*' pledge group. Depending on the condition that donors making a pledge committed to some positive amount (they had the option not to say) they found that pledging, both '*soft*' and '*firm*' versions, significantly increase the value of the donations made to the charity.

5.2.1 Framework

I use a simple framework to look at the costs and benefits associated with signing up to the project which follows an approach set out in Andreoni and Serra-Garcia (2016). There are two stages, stage 1 is when people are asked to take part and stage 2 is when the project starts and sign up is confirmed.

In this model, the benefits of giving that people gain are defined as α. The costs of giving are defined as g. The costs and benefits of giving start at the time of project launch, in stage 2; thus, an individual will take part if $\alpha - g > 0$.

In this experiment, people are asked about their future intention to sign up for the project in the first stage but they do not actually have to commit any funds until the second stage. Along with the benefits that start from giving in stage 2 (α) there are also likely to be some benefits that start from the moment a decision to give is made.

In Chapter 1, I presented more detail on the different motivators for giving and followed a framework set out by Andreoni (1990). There are people who only get utility from the outcome that their gift enables. These people are usually defined as '*pure*' altruists. In practice, many

people get some utility or '*warm glow*' from the act of giving and may not even pay attention to how the charity uses their gift. If a person is motivated by this '*impure altruism*' then some of the benefits could be felt as soon as they are asked to take part in the project and not necessarily when the money for a gift is paid (Andreoni *et al.* 2015).

People may also get benefits modelled by Bénabou and Tirole (2006) in the form of improved reputation or social standing. This captures the idea that a person would like to appear prosocial in front of others. This seems less relevant for this experimental set up, as the intention people express is not observed by anyone else. Nevertheless, this is a community project being supported by the council and so senior staff at the council may feel some pressure to sign up. Even though the survey is private, there is some degree of visibility related to spending money, so senior members of staff may feel the need to be seen supporting the project.

The Bénabou and Tirole (2006) framework also presents the idea that people not only wish to signal to other people that they are prosocial but like to be able to think of themselves as the sort of person who cares about giving. Participating in activities, such as donating to charity makes it easier for people to see themselves as a '*good*' person and the effects can be similar to signalling in the presence of others. Thus, it can be said that there is likely to be some form of reputational utility that comes from pledging in stage 1.

There are also costs and benefits, not just from the act of giving, but with the giving decision. Andreoni and Serra-Garcia (2017) make the distinction between a giving decision and a giving transaction. They argue that a certain amount of social pressure is felt when the decision to give is made, which is independent of when the actual giving behaviour starts. They argue that the emotional reaction will be negative when the ask is declined. Other papers have highlighted the effort people sometimes go to avoid being asked in the first place (Andreoni *et al.* 2017). A paper by DellaVigna *et al.* (2009) concluded that people avoided answering the door when they were forewarned that a door-to-door fundraiser was going to call.

In this experiment, the initial request is in the form of a survey that reduces the social pressure outlined by Andreoni and Serra-Garcia (2017) as there is no need to say no to a fundraiser. Nonetheless, there is still a pressure to say yes as the subjects were given a gift of Brixton Pounds (£10) after completing the survey. This may have created pressure to reciprocate by

being enthusiastic about the project and they may also feel that it is important in terms of their self-image.

In summary there are a range of reasons that may help people experience the benefits of making a pledge to give that takes place prior to the start of the project including warm glow, reputation, self-signalling and social pressure. Similarly, declining a pledge can lead to a range of negative emotions. Even those motivated solely by pure altruism, or the provision of the public good or service, may experience some benefit (or at least absence of cost) from the time at which the giving decision starts. In this simple framework, all of these different factors are condensed into a positive benefit from saying yes (s_y) where $s_y > 0$ and there is a disutility of saying no ($-s_n$), where $-s_n < 0$. In this experiment, it is not possible to isolate the factor that drives these positive or negative effects, but what is important is that they start in stage 1, prior to actually signing up.

Since and individual can only say yes or no, the net utility of saying no is:

$$-n = -s_n - s_y < 0$$

Individuals will give if

$$\alpha - g \geq -n$$

There are two stages in the experiment. People are asked at stage 1, which is when the costs of saying no or utility of saying yes is experienced. The costs and utility of giving actually starts in stage 2, when people officially sign up for the project and are multiplied by ∂, which is the individual discount rate. If people sign up at stage 1 and then renege at stage 2, there is an additional cost ($-c$), which is the cost of reneging. As outlined above, reneging will have a cost as people do not like to go back on their word. It is likely that this will be higher for people who were in the second treatment group, as they had been asked to make a commitment and they would have to change the amount they entered in the sign-up form if they deviate from the amount they agreed to give initially.

This leads to three possible outcomes:

1. People pledge with the intention of giving:
   Stage 1: $\delta\,(\alpha - g) \geq -n$

Stage 2: $\alpha - g \geq -c$

2. People pledge and then renege

Stage 1: $\delta(\alpha - g) \geq -n$

Stage 2: $\alpha - g < -c$

3. People don't pledge (and do not give)

Stage 1: $-n > -\delta(\alpha - g)$

One of the challenges of this experimental design is it is possible for people to avoid the sign-up stage of the project and not be reminded of the values they committed to or stated their intention to give, so the cost of reneging may be quite low.

5.3 Experimental Design

5.3.1 Implementation of the Experiment

The field experiment was carried out in collaboration with Lambeth Council and the Brixton Pound between June and October 2012. The experiment was implemented at the time of the launch of a scheme called '*Payroll Local*' (also referred to as '*the project*'). This enabled staff who worked at the council, to take some of their salary in a local currency i.e. Brixton Pounds. This experiment shares some design features with '*payroll* giving' in that the deduction happens automatically every month. It differs from payroll giving because, rather than going directly to charity, the money is placed in an account that staff can access to either spend in participating independent shops and cafes or donate to local charities.

The experimental design had two stages that were implemented within the delivery of the project. The first stage was a survey in the form of a questionnaire that council staff could fill in before the project launched. This survey contained the question about future participation and staff were randomised into one of three treatment groups to determine if they got the 'light' or 'strong' framing (or the control where there was no question about future participation). The survey also gave an opportunity to capture demographic features of participants, which could be used to explore characteristics of the people who donated. The second stage was during the

actual launch of the project, where the staff were reminded of what they would said they would do at the survey stage and were asked to sign up.

People were given a £10 incentive to complete the initial survey (paid in Brixton Pounds) but there was no incentive to sign up to the project, which might be one of the reasons that participation was lower in the second stage.

5.3.2 Treatments

Staff were randomly assigned to one of three treatment groups: a control group who were not asked if they wished to participate in the project (T0), a '*light*' ask (T1), and a '*strong*' ask (T2). There were two differences between the treatment groups, the first was that they got a differently worded question in the initial survey with the '*strong*' group getting text that asked them to make a firmer commitment to the project. The second was that they were reminded of the commitment they had made in different ways in the actual implementation of the project. The differences in text is presented in the boxes in the following section and the treatments are summarized in Figure 1.

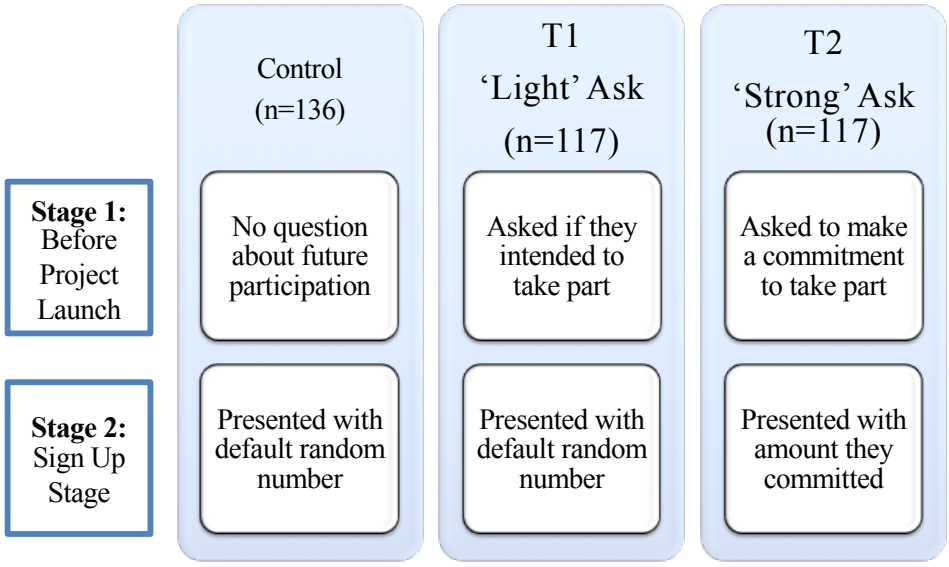

Figure 5-1: Summary of the treatments

Stage 1: Survey prior to the project launch

Treatment 1 ('*Light*' ask): In the survey before the project launch, they were asked to make an initial pledge to take part. The exact wording was as follows:

> 'We would like to ask you to consider your participation in Payroll Local.
> How much do you think you would like to take as Brixton Pounds each month?
> *We understand you may still have questions about the Brixton Pound. We are asking this to help us understand participation and develop the scheme. You are not signing up now. When the project is launched you will be asked to officially sign up. We will remind you of the answer you gave here if you have given us your name at the end of the survey and you will be asked to make your final choice then.'*

Treatment 2 ('*Strong*' ask): In the survey before the project launch, they were asked to make a pledge, but the wording suggested a firmer commitment than that of T1. The exact wording was as follows:

> 'We would like to ask you to consider your participation in Payroll Local.
> How much will you commit to take in Brixton Pounds each month? This information will be processed by the Payroll department of Lambeth Council.
> *Note: You will be asked to officially confirm this amount at the launch of the programme.*'

Stage 2: Sign-up form for the project

As well as the difference in questions asked in the survey, if staff went on to actually sign up to the project they were presented with the amount they pledged/committed in a different way. Not all the staff who took the survey went on to sign up for the project and not all the staff who signed up for the project took the initial survey.

Treatment 1 ('*Light*' ask): Participants were reminded of the answer they gave in the survey using the text in the box below (this is for a person who indicated they would take £50 a month). They entered the amount they wished to in a box presented with random numbers, drawn from the distribution of pledges.

> "In the survey you completed in May, you indicated that you thought you would like to take £50 in B£ each month. Please indicate in the box below the exact amount you wish to take in B£ each month."

Treatment 2 ('*Strong*' ask): Participants were reminded of the answer they gave in the survey in the following way (this is for a person that committed to taking £50 a month).

> "In the survey you completed in May, you committed to take £50 in B£ each month. Please confirm that you wish to take £50 in B£ each month."

The T2 participants also had the option to deviate from the amount they had committed to take, but if they did so they would have to change the amount in the box. People who were in T0 or did not complete the survey were asked if they wished to participate and the amount in the box was a random number drawn from the distribution of pledges.

5.3.3 Hypotheses

There are two main research questions. The first is whether asking people in advance makes them more likely to take part in this prosocial activity. The second is whether the wording of the request makes any difference and also affects the cost of reneging on the pledge.

At the pre-project survey stage, let sx_{ij} denote a stated donation of donor j (j = 1…..n) in treatment I (i = 1, 2) where treatment 1 is the '*light*' ask and treatment 2 is the '*light*' ask. Let $s\mu_i$ denote the mean amount of stated donation in treatment i.

When people are being asked to sign up for the project, let ax_{ij} denote an actual donation of donor j (j = 1…..n) in treatment I as i (i = 0, 1, 2), where treatment 1 is the '*light*' ask, treatment 2 is '*strong*' ask, and treatment 0 is the '*control*'. Let $a\mu_i$ denote the mean amount of stated donation in treatment i and f_i the frequency of donation over zero in each of the treatment groups.

$H_1: f_1 > f_0;\ f_2 > f_0$

I hypothesise that individuals who are asked about their intention to give or commit at stage 1 will be more likely to take part in the project than the control group.
Rejection of this hypothesis will support the alternative hypothesis that people who are asked to give or commit in advance are no more likely to take part than those who are not i.e. $f_1 = f_0;\ f_2 = f_0$

$H_2: a\mu_2 > a\mu_1 > a\mu_0$
Individuals who were asked to make a commitment in advance (T2) will donate more money to the project than individuals who were asked about their intentions to take part (T1) and both treatments will donate more than those in the control group.
Rejection of this hypothesis will support the alternative hypothesis that individuals will not donate more money if they were in treatment 2 as compared to treatment 1 and both treatments will donate no more than the control group i.e. $a\mu_2 = a\mu_1 = a\mu_0$

5.4 Results

The survey was sent by email to over 3000 members of staff at the local authority. There were 370 responses to the survey, of which 136 were in T0 (control), 117 were in treatment 1 (T1), and 117 in treatment 2 (T2). The people who answered the survey self-selected and are likely to be people familiar with the Brixton Pound and more pro-socially motivated. The randomisation suggests that such self-selection will be independent of the assigned treatment. There was no difference in the proportion of people that had used the Brixton Pound before across the treatment groups.

The first table presents summary statistics from the first stage survey across the three treatment groups. Around one-fifth of the participants had already used the currency as a part of the project before. The majority of staff worked in Brixton, where the project was based. More women took the survey as compared to men and most of the participating staff fell in the medium band of pay. Just under half of them came from the Black, Asian, and minority ethnic (BAME) background. The majority had been to university. Most of the staff lived in London but most lived outside Brixton and Lambeth, where the project is based.

Each of the values in table 5.1 was tested for differences between the treatment groups to assess if the randomisation was balanced. There were some differences between the treatment groups with regards to gender with the proportion of women between T1 and T2 statistically significant at the 5% level. There are also some differences between the proportion that went to university between T0 and T2 which is different at the 5% level

Table 5-1: Summary Statistics – Mean and Standard Deviation

Variable	T0 (Control)	T1 (light)	T2 (strong)
Use B£	0.20	0.22	0.17
	(0.40)	(0.41)	(0.38)
Work Brixton	0.73	0.74	0.79
	(0.45)	(0.44)	(0.41)
Female	0.64	0.50	0.69
	(0.48)	(0.50)	(0.46)
Low Pay	0.12	0.15	0.16
	(0.33)	(0.35)	(0.37)
Med Pay	0.65	0.65	0.54
	(0.48)	(0.48)	(0.50)
High Pay	0.17	0.17	0.20
	(0.38)	(0.38)	(0.40)
Worked at LBC less than 3 years	0.21	0.25	0.25
	(0.41)	(0.43)	(0.43)
Worked at LBC 3 to 5 years	0.21	0.18	0.21
	(0.41)	(0.39)	(0.41)
Worked at LBC 5 to 10 years	0.31	0.38	0.29
	(0.46)	(0.49)	(0.45)
Worked at LBC over 10 years	0.27	0.19	0.24
	(0.44)	(0.39)	(0.43)
Ethnic Minority	0.47	0.49	0.45
	(0.50)	(0.50)	(0.50)
Unknown Ethnicity	0.05	0.05	0.10
	(0.21)	(0.22)	(0.30)
Went to Uni	0.78	0.73	0.64
	(0.42)	(0.44)	(0.48)
Live Brixton	0.07	0.07	0.07
	(0.26)	(0.26)	(0.26)
Live London	0.67	0.65	0.60
	(0.47)	(0.48)	(0.49)
Live Lambeth	0.16	0.19	0.22
	(0.37)	(0.39)	(0.42)
Live outside London	0.10	0.10	0.10
	(0.30)	(0.30)	(0.30)

Table 5-2: Summary Results

Treatment Group	Control	T1	T2
Stage 1 - Survey			
Number of observations	136	117	117
Frequency who said they would donate some positive amount (f)	n/a	74	61
Share of participants saying they would donate		61%	53%
Average amount committed, conditional on making a positive commitment	n/a	£43.2 (27.14)	£33.9 (24.2)
Average amount committed (including those who said 0)	n/a	27.13 (2.77)	18.82 (2.35)
Stage 2 – Project Launch			
Number that went on to participate	11	12	8
Percentage reneging	n/a	84%	87%
Average amount donated conditional on participating	£21.82 (11.24)	£25.08 (16.76)	£42.50 (26.05)
Average amount donated	£1.83 (6.83)	£2.57 (9.22)	£3.04 (12.79)

A summary of the results is presented in table 5.2. This table shows that the amount that people say they will take in Brixton Pounds was higher when the question is worded with less commitment. On average people who were asked their intention (T1) to take part said they would take £27.13 which is around £9 higher than those who were in T2 and asked how much they would commit to taking (£18.18). This is a large and statistically significant difference (at the 5% level). The frequency of people signing up is slightly lower in T2 (61 people) as compared to T1 (74 people), which is consistent with the stronger worded language and idea of commitment puts off some people. This suggests that people in T2 anticipated the cost of reneging and lowered the amount they committed to donate or did not sign up in the first place. People in both T1 and T2 indicated very strong levels of enthusiasm for taking part in the project with an average participation of 57%.

These good intentions were not followed through with action and there were very high and similar reneging rates from both groups. The percentage of reneging in T1 and T2 was 84%

and 87%, respectively. This highlights the difference between what people agree to do in a survey and what they actually do in practice. The low participation makes it difficult to make conclusive claims about the differences between the treatments at stage 2. Nonetheless, those who were asked to make a commitment (T2) donated double the amount compared to those who were just asked about the intentions to take part and the following graph summarises the amount committed in advance and taken. At stage 1 in the survey, participants in T1 said they would take higher amounts than those in T2; however, in stage 2, during the sign up the data was reversed, with those in T2 taking more than those in T1.

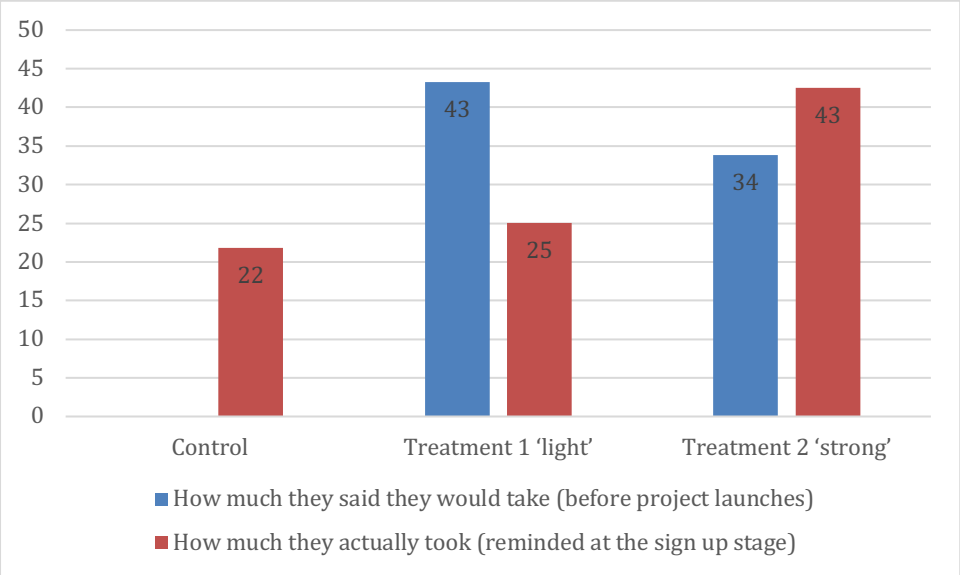

Figure 5-2 How much people agreed to take in project (conditional on giving some positive amount).

There is a fourth group of 35 people who signed up to the project but did not complete the initial survey. They took £12.64 on average, which is significantly lower than both the control and the other treatments but is likely to come from the selection effect. People who chose to respond to a survey are signalling that they have some familiarity with the Brixton Pound and thus a higher willingness to want to use it and sign up to the project. These people did not complete the survey so we do not have information about any of their demographics.

5.4.1 Hypothesis 1: Does being asked in advance make people more likely to take part?

It is already clear from the summary results that none of the treatments increase the number of people who take part in the project and the regression results presented in Table 5.3 confirm this. The results report an ordinary least squares (OLS) regression and the margins at the means

after a logit regression. The dependent variable is whether people went on to sign up to the project. There are no statistically significant differences between T1 and T2, as compared to T0 (the control).

The third and fourth columns in results Table 5.3 includes controls. The only statistically significant variable is a dummy representing whether people have used the Brixton Pound before. It makes sense that this is positive and people who have some familiarity with the organization running the project will be more likely to sign up. Women were more likely to sign up for the project than men, although this difference is not statistically significant. There are three categories for pay, with the coefficient on low pay and medium pay both negative (but not statistically significant) compared to the omitted category which is those on high pay. People on higher salaries are more likely to take part and also people who went to university (although not statistically significant).

This result means that I can reject Hypothesis 1. Asking people to state their intentions in advance, in either the '*light*' or '*strong*' version where they were asked to make a commitment, did not increase participation.

Table 5-3. Regression Results. Dependent variable: Participation in project in stage 2

	OLS	LOGIT	OLS	LOGIT
	(1)	(2)	(3)	(4)
T1 '*light*'	0.019	0.017	0.042	0.035
	(0.036)	(0.034)	(0.059)	(0.050)
T2 '*strong*'	-0.013	-0.014	-0.002	0.015
	(0.036)	(0.038)	(0.062)	(0.054)
Use B£			0.253***	0.162***
			(0.062)	(0.047)
Work Brixton			0.053	0.033
			(0.058)	(0.052)
Female			0.083	0.074
			(0.054)	(0.047)
Low Pay			-0.041	-0.024
			(0.096)	(0.089)
Med Pay			-0.104	-0.069
			(0.060)	(0.050)
Worked at LBC less than 3 years			-0.070	-0.068
			(0.071)	(0.069)
Worked at LBC 3 to 5 years			0.015	0.014
			(0.081)	(0.071)
Worked at LBC 5 to 10 years			0.059	0.058
			(0.068)	(0.058)
Ethnic Minority			-0.076	-0.058
			(0.053)	(0.046)
Unknown Ethnicity			-0.235	0.000
			(0.180)	(.)
Went to Uni			0.086	0.093
			(0.063)	(0.066)
Live Brixton			0.159	0.154
			(0.122)	(0.117)
Live London			0.107	0.122
			(0.089)	(0.103)
Live Lambeth			0.055	0.073
			(0.100)	(0.111)
_cons	0.084***		-0.063	
	(0.025)		(0.123)	
n	360	360	199	195

5.4.2 Hypothesis 2: People in the 'strong' treatment will donate more to the project than those in the 'light' group

One of the reasons that might have resulted in a high rate of reneging is that people did not have to directly confront the choices they made in the survey, it was easy to ignore the next email when the project started. Similar to the findings of other studies that say that people make an effort to avoid being asked by fundraisers (see DellaVigna *et al.* 2012; Andreoni *et al.* 2017), people could have made an effort not to sign up for the project. It is possible that they continued to tell themselves that they would take part, or would sign up for it, but had not got around to it yet. People who did go on to sign up for the project were reminded about the amount they either stated an intention to give (T1) or committed to (T2) in advance.

The low participation in the project and small sample sizes makes it hard to make conclusive claims about the differences between the two treatments at the sign-up stage. The results table (Table 5.4) shows regression results, with the amount taken (in pounds) as the dependent variable. (1) and (2) includes the people who did not donate anything and (3) and (4) shows the amount given (conditional on giving some positive amount).

In (1) and (2) there are no significant differences between those in the treatment groups and those who were not. This is consistent with hypothesis 1 being rejected as a large number of people did not take part, so have a value of zero. In column two, the model with controls, the only statistically significant variable is the amount taken by staff from the medium pay group, who take over £5 less than those in the high pay group. Women give £1.45 more (not statistically significant) and people who live in Brixton take nearly £6 more in comparison to people who live outside London.

Table 5-4. Regression results. Dependent variable: Amount taken in stage 2 (£)

	Amount: Full Sample		Amount: conditional on participating at stage 2	
	(1)	(2)	(3)	(4)
T1 '*light*'	0.741	1.259	3.265	-5.594
	(1.243)	(2.142)	(7.527)	(9.183)
T2 '*strong*'	1.204	2.461	20.682*	12.730
	(1.258)	(2.274)	(8.379)	(9.240)
Use B£		3.459		-20.499*
		(2.246)		(9.006)
Work Brixton		2.812		15.898
		(2.097)		(10.038)
Female		2.236		5.001
		(1.978)		(8.525)
Low Pay		-3.479		-29.580
		(3.485)		(16.864)
Med Pay		-5.298*		-10.359
		(2.195)		(8.392)
Worked at LBC less than 3 years		-2.392		-0.983
		(2.579)		(12.441)
Worked at LBC 3 to 5 years		1.073		2.520
		(2.936)		(15.676)
Worked at LBC 5 to 10 years		1.748		-2.786
		(2.494)		(9.537)
Ethnic Minority		-3.362		-9.243
		(1.942)		(10.743)
Unknown Ethnicity		-9.713		0.000
		(6.570)		(.)
Went to Uni		2.643		19.348
		(2.281)		(12.051)
Live Brixton		6.294		-4.642
		(4.454)		(23.944)
Live London		4.188		-10.979
		(3.233)		(22.927)
Live Lambeth		4.325		-0.588
		(3.656)		(23.217)
_cons	1.832*	-1.736	21.818***	24.582
	(0.854)	(4.484)	(5.437)	(26.608)
n	360	199	31	31

In (3) and (4) only the people who participated in the project are included, so the sample size is very small. In specification (3), there is a large difference between those in the second treatment group. This is statistically significant at the 5% level and those who were asked to make a commitment of £20.68 more on average. When controls are added in the specification (4), the coefficient on T2 is still large at £12.73 but is no longer statistically significant (due to the very small sample size). There is a large negative coefficient on those who have used the Brixton Pound before, which seems to be driven by the only person who took £100 per month and has not used the B£ and by three people who have used the B£ before and have taken the smallest amount, £5. None of the other variables are statistically significant but there is a large positive coefficient on people who went to university and took £19 and more. The largest coefficient is on the low-pay group who take £30 less than those in the high pay group.

The amount taken by those in the '*light*' (T1) group is slightly larger than those in the control group, with those in the control taking an average £21.82 and those in the '*light commitment*' taking £25.08. There is a difference of just over £3 each and is not statistically significant.

This means that hypothesis 2 is accepted (with some caution due to the small sample size). Asking people's intentions in advance does increase the amount of money taken in the project but only for those in the '*strongly*' worded group (T2) and only conditional on people signing up to the project. It seems that people were able to renege with very low costs by avoiding signing up to the project easily. People who did sign up for the project were confronted more directly with the amount they intended to take in Brixton Pounds and those in the '*strong*' group seem to have found it harder to renege on this amount. It is not possible to isolate whether the effect was from the differences on the sign-up form or from the question in the survey.

Similar results are presented in appendix Table 2, which shows the difference between the amount people said they would sign up and the amount they actually signed up for. This is significant at the 5% level in the model without controls, with those in T1 (the light ask) having a larger difference between what they said they would do and what they did (£9) compared to those who were asked to commit in advance (T2). This drops to £5 once the controls are added

and it no longer remains statistically significant. Columns (3) and (4) report the amounts conditional to giving some positive amount, so the sample size is a lot smaller and none of the results are significant. The difference is still larger among that in T1, compared to T2, and the difference rises when controls are accounted for to £11. These results are sensitive to the inclusion of one outlier, as one person in T2 donated £40 more than they said they would in the survey, when everyone else in both treatments donated either the same as they said they would or less.

5.5 Discussion and Conclusions

The main conclusion that can be reached from this field experiment is that people who were asked to state their intention to take part in advance were no more likely to actually sign up than those who were not asked about their future intentions. In this study, people were asked in one of two ways, one had a '*strong*' wording that asked for a commitment, the other was '*light*' and asked about their future intent to take part. While a large number of people, in both treatment groups, said they would sign up neither treatment had an impact on the actual participation.

There were differences between the treatments with regards to the amount of money they contributed to the project. People who were in the treatment where they got the '*strong*' wording seemed to (correctly) anticipate that the cost of reneging would be higher and committed to take lower amounts in the project compared to those who got the 'light' wording (T1). At the start of the project, participants who were in the '*strong*' treatment (T2) took larger amounts and there was a smaller difference between what they said they would take and what they did take, compared to those in the 'light' treatment (T1) but the sample size was very small and more research is needed to be able to make more conclusive claims about this.

The most important finding in this study for charities, or any project wishing to gauge what people are likely to do in the future, is that asking them in advance does not give answers indicative of what they are likely to do. This study found that a large number of people said

they would take part in a project even without a fundraiser being present to apply social pressure.

On one hand, from a charity fundraising point of view, these results suggest that people should be asked for a binding commitment in advance and the cost of reneging should be higher. This will raise more funds for the charity and helps people who want to give but have self-control problems. It's unclear if this strategy is good from a social welfare perspective, if it means that a large number of people who signed up did not really want to take part but also did not want to say no to the offer.

An area that seems worthy of further exploration is why so many people agreed to take part in this project even without any pressure from a fundraiser. It is possible that self-signalling played an important role and that people wanted to be able to feel like they were the kind of person who would support a community project. People were able to avoid the sign-up stage of the project, so it is possible that these people were able to maintain their own perception that they would take part at some stage. It would be interesting to find out more about the extent to which people valued being able to think of themselves as a person who participates and if this belief can be maintained even when they did not participate.

The results of the experiment can also explain some of the findings that relate to social activism online and in areas where people are asked to do things for charity in ways that do not ask for large commitments of time or effort. We see a large number of people sharing petitions or clicking on options that say that they are interested in attending political demonstrations and more generally associating with charitable or pro-social causes. This is unlikely to tell us much about the level of effort these individuals make to achieve any social justice goals in their personal life.

5.6 Appendix to chapter 5

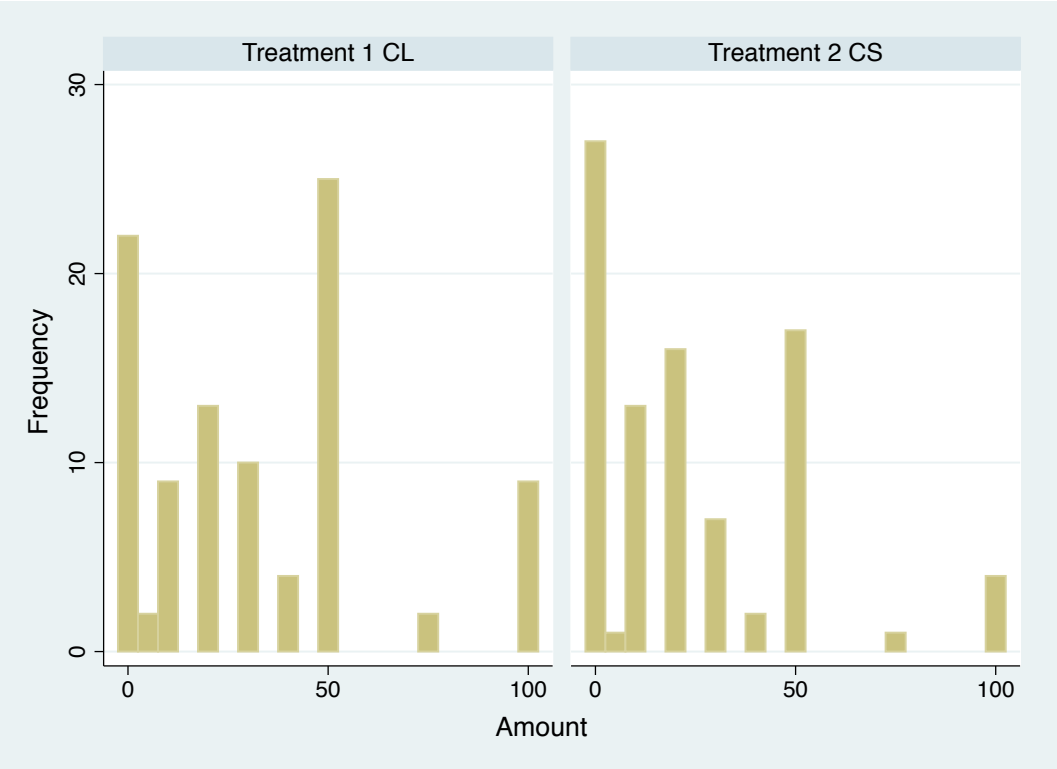

Figure 5-3 Distribution of the amounts in stage 1 (survey).

Table 5-5. Regression results. Dependent Variable: Difference between intention at stage 1 and observed behaviour at stage 2.

	Difference: Full Sample		Difference: conditional on participating at stage 2	
	(1)	(2)	(3)	(4)
T1 '*light*'	8.786*	4.996	1.167	7.225
	(3.395)	(4.940)	(10.435)	(15.690)
Use B£		16.305**		10.991
		(5.764)		(15.590)
Work Brixton		4.782		-0.411
		(5.439)		(29.644)
Female		-4.990		-9.196
		(5.102)		(18.949)
Low Pay		4.229		35.689
		(8.693)		(38.697)
Med Pay		4.945		3.083
		(5.453)		(17.365)
Worked at LBC less than 3 years		-6.110		-10.000
		(6.918)		(19.722)
Worked at LBC 3 to 5 years		-0.055		26.062
		(8.397)		(30.807)
Worked at LBC 5 to 10 years		-3.493		9.411
		(6.522)		(21.247)
Ethnic Minority		-2.927		-10.582
		(5.052)		(19.930)
Unknown Ethnicity		-12.582		0.000
		(15.374)		(.)
Went to Uni		8.702		-13.214
		(5.849)		(24.129)
Live Brixton		-4.294		42.058
		(11.416)		(41.756)
Live London		2.504		38.254
		(8.755)		(51.131)
Live Lambeth		8.422		41.947
		(9.519)		(41.875)
_cons	15.727***	5.056	16.250	-19.951
	(2.427)	(12.415)	(8.083)	(44.034)
n	225	121	20	20

List of abbreviations

CIC	Community Interest Company
CLR	Controlled Legal Representation
DWP	Department for Work and Pensions
FP	For-Profit
KPI	Key Performance Indicator
LAA	Legal Aid Agency
LSC	Legal Services Commission
NDC	Non-distribution Constraint
NP	Non-Profit or Not-for-Profit
PSM	Public Service Motivation

Bibliography

Advice UK, 2008. It's the System, Stupid! Radically Rethinking Advice. London. https://baringfoundation.org.uk/wp-content/uploads/2008/10/ITSS.pdf

Ai, C., Norton, E.C., 2003. Interaction terms in logit and probit models. Economics Letters 80, 123–129. https://doi.org/10.1016/S0165-1765(03)00032-6

Akerlof, G.A., Kranton, R.E., 2005. Identity and the Economics of Organizations. The Journal of Economic Perspectives 19, 9–32.

Akerlof, G.A., Kranton, R.E., 2000. Economics and Identity. The Quarterly Journal of Economics 115, 715–753.

Alchian, A.A., Demsetz, H., 1972. Production, Information Costs, and Economic Organization. The American Economic Review 62, 777–795.

Alcock, P., 2010. "What are our Future Sources of Welfare" in Supply Side Futures for Public Services. 2020 Public Services Trust at the RSA, London.

Andreoni, J., 1990. Impure Altruism and Donations to Public Goods: A Theory of Warm-Glow Giving. The Economic Journal 100, 462.

Andreoni, J., Rao, J.M., Trachtman, H., 2017. Avoiding the Ask: A Field Experiment on Altruism, Empathy, and Charitable Giving. Journal of Political Economy 125, 625–653.

Andreoni, J., Serra-Garcia, M., 2017. Time-Inconsistent Charitable Giving (Working Paper No. 22824). National Bureau of Economic Research. https://doi.org/10.3386/w22824

Andreoni, J., Serra-Garcia, M., 2016. Time-Inconsistent Charitable Giving (No. w22824). National Bureau of Economic Research, Cambridge, MA. https://doi.org/10.3386/w22824

Andreoni, J., Serra-Garcia, M., Koessler, A.-K., 2015. Toward Understanding the Giving Process: Deciding to Give versus Giving∗ 41.

Anik, L., Aknin, L.B., Norton, M.I., Dunn, E.W., 2009. Feeling Good About Giving: The Benefits (and Costs) of Self-Interested Charitable Behavior. SSRN Electronic Journal. https://doi.org/10.2139/ssrn.1444831

Ariely, D., Loewenstein, G., Prelec, D., 2006. Tom Sawyer and the construction of value. Journal of Economic Behavior and Organization 60, 1–10. https://doi.org/10.1016/j.jebo.2004.10.003

Arkes, H. R., Joyner, C. A., Pezzo, M. V., Nash, J. G., Siegel-Jacobs, K., & Stone, E., 1994. The psychology of windfall gains. Organizational Behavior and Human Decision Processes, 59, 331–347.

Balmer, Nigel, Buck, Alex, Patel, Ashish, Denvir, Catrina, Pleasence, Pascoe, 2010. Knowledge, capability and the experience of rights problems, Research Report March 2010.

Balmer, N.J., Smith, M., Denvir, C., Patel, A., 2012. Just a phone call away: is telephone advice enough? Journal of Social Welfare and Family Law 34, 63–85. https://doi.org/10.1080/09649069.2012.675465

Baumeister, R.F., Stillwell, A.M., Heatherton, T.F., 1994. Guilt: An Interpersonal Approach. Psychological Bulletin 115, 243–267. https://doi.org/10.1037/0033-2909.115.2.243

Bawdon, Fiona, 2014. Chasing Status: If not British, then what am I? Legal Action Group, London.

Bénabou, R., Tirole, J., 2006. Incentives and Prosocial Behavior. American Economic Review 96, 1652–1678. https://doi.org/10.1257/aer.96.5.1652

Bénabou, R., Tirole, J., 2003. Intrinsic and Extrinsic Motivation. The Review of Economic Studies 70, 489–520.

Bengt Holmstrom, Paul Milgrom, n.d. Multitask Principal-Agent Analyses: Incentive Contracts, Asset Ownership, and Job Design. Journal of Law, Economics, & Organization 7.

Besley, T., Ghatak, M., 2005. Competition and Incentives with Motivated Agents. The American Economic Review 95, 616–636.

Besley, T., Ghatak, M., 2003. Incentives, Choice, and Accountability in the Provision of Public Services. Oxf Rev Econ Policy 19, 235–249. https://doi.org/10.1093/oxrep/19.2.235

Beveridge, W.H.B., 1948. Voluntary action;a report on methods of social advance. New York.

Bhavnani, Shanta, 2005. A Practical Guide to Outcomes for Advice. Advice Services Alliance, London.

Boyle, D., Coote, A., Sherwood, C., Slay, J., 2010. Right here, Right now: Taking co-production into the mainstream. NESTA, London.

Breman, A., 2011. Give more tomorrow: Two field experiments on altruism and intertemporal choice. Journal of Public Economics 95, 1349–1357. https://doi.org/10.1016/j.jpubeco.2011.05.004

Burgess, S., Metcalfe, Paul, 1999. Incentives in Organisations: A Selective Overview of the Literature with Application to the Public Sector. CMPO Working Paper Series No. 00/16 84.

Burgess, S., Propper, C., Ratto, M., von Hinke, S., Scholder, K., Tominey, E., 2010. Smarter Task Assignment or Greater Effort: The impact of incentives on team performance. The Economic Journal 120, 968–989.

Burgess, S., Ratto, M., 2003. The Role of Incentives in the Public Sector: Issues and Evidence. Oxf Rev Econ Policy 19, 285–300. https://doi.org/10.1093/oxrep/19.2.285

Burgess, Simon, P., Carol, Wilson, D., 2002. Does Performance Monitoring Work? A Review of the Evidence from the UK Public Sector, Excluding Health Care.

CAB, n.d. What our volunteers do [WWW Document]. URL http://www.citizensadvice.org.uk/about-us/support-us/volunteering/about-volunteering-with-citizens-advice/volunteer_roles/ (accessed 5.10.18).

Cabinet Office, 2014. Open Public Services: 2014 progress report [WWW Document]. GOV.UK. URL https://www.gov.uk/government/publications/open-public-services-2014-progress-report (accessed 4.19.18).

Carter, Lord, 2006. Lord Carter's Review of Legal Aid Procurement: Legal Aid A market-based approach to reform.

Centre for Social Justice, 2011. Outcome Based Government: How to improve spending decisions across government. A Policy Report from the Social Return on Investment Working Group.

Charness, G., Dufwenberg, M., 2006. Promises and Partnership. Econometrica 74, 1579–1601. https://doi.org/10.1111/j.1468-0262.2006.00719.x

Chetkovich, C., Frumkin, P., 2003. Balancing Margin and Mission: Nonprofit Competition in Charitable Versus Fee-Based Programs. Administration & Society 35, 564–596. https://doi.org/10.1177/0095399703256162

Citizens Advice, 2010. Towards a business case for legal aid [WWW Document]. URL https://www.accesstojusticeactiongroup.co.uk/wp-content/uploads/2011/07/towards_a_business_case_for_legal_aid.pdf (accessed 4.21.18).

Cotterill, S., John, P., Richardson, L., 2012. The Impact of a Pledge Request and the Promise of Publicity: A Randomized Controlled Trial of Charitable Donations. Social Science Quarterly 94, 200–216. https://doi.org/10.1111/j.1540-6237.2012.00896.x

Council on Social Action, 2009. Time well-spent: The importance of the one-to-one relationship between advice workers and clients. Community Links.

Courty, P., Marschke, G., 2004. An Empirical Investigation of Gaming Responses to Explicit Performance Incentives. Journal of Labor Economics 22, 23–56. https://doi.org/10.1086/380402

Cowley, E., Smith, S., 2014. Motivation and mission in the public sector: evidence from the World Values Survey. Theory Decis 76, 241–263. https://doi.org/10.1007/s11238-013-9371-6

Deci, E.L., Koestner, R., Ryan, R.M., 1999. A Meta-Analytic Review of Experiments Examining the Effects of Extrinsic Rewards on Intrinsic Motivation. Psychological Bulletin 125, 627–668. https://doi.org/10.1037/0033-2909.125.6.627

Delfgaauw, J., Dur, A.J., Propper, C., Smith, S., 2011. Management Practices: Are Not For Profits Different?

Delfgaauw, J., Dur, R., 2010. Managerial talent, motivation, and self-selection into public management. Journal of Public Economics 94, 654–660. https://doi.org/10.1016/j.jpubeco.2010.06.007

Delfgaauw, J., Dur, R., 2008. Incentives and Workers' Motivation in the Public Sector*. Economic Journal 118, 171–191. https://doi.org/10.1111/j.1468-0297.2007.02108.x

Delfgaauw, J., Dur, R., 2007. Signaling and screening of workers' motivation. Journal of Economic Behavior & Organization 62, 605–624. https://doi.org/10.1016/j.jebo.2005.04.017

DellaVigna, S., List, J.A., Malmendier, U., 2009. Testing for Altruism and Social Pressure in Charitable Giving (Working Paper No. 15629). National Bureau of Economic Research. https://doi.org/10.3386/w15629

Dixit, A., 2012. Bureaucracy, Its Reform and Development. Review of Market Integration 4, 135–157. https://doi.org/10.1177/0974929212465682

Dixit, A., 2002. Incentives and organizations in the public sector: An interpretive review. The Journal of Human Resources 37, 696–727. https://doi.org/10.2307/3069614

Donahue, J., 1988. Prisons for Profit: Public Justice, Private Interests. Economic Policy Institute, Washington.

Dreber, A., Fudenberg, D., Levine, D.K., Rand, D.G., n.d. Self-Control, Social Preferences and the Effect of Delayed Payments 44

Dunn, E.W., Aknin, L.B., Norton, M.I., 2008. Spending Money on Others Promotes Happiness. Science 319, 1687–1688. https://doi.org/10.1126/science.1150952

Easley, D., O'Hara, M., 1983. The Economic Role of the Nonprofit Firm. The Bell Journal of Economics 14, 531–538. https://doi.org/10.2307/3003654

Economides, K., Blacksell, M., Watkins, C., 1986. The Spatial Analysis of Legal Systems: Towards a Geography of Law? Journal of Law and Society 13, 161–181. https://doi.org/10.2307/1410279

Evans, K., n.d. Kathy Evans: What charities can learn from the collapse of Carillion [WWW Document]. URL https://www.civilsociety.co.uk/voices/kathy-evans-who-wants-to-be-a-carillion-heir.html#sthash.8PJooYFS.dpuf (accessed 6.18.18).

Finn, D., 2010. Outsourcing Employment Programmes: Contract Design and Differential Prices. European Journal of Social Security 12, 289–302. https://doi.org/10.1177/138826271001200403

Finn, D., Great Britain, Department for Work and Pensions, 2009. Differential pricing in contracted out employment programmes: review of international evidence. Dept. for Work and Pensions, London.

Fosgaard, T.R., Soetevent, A., 2018. Promises Undone: How Committed Pledges Impact Donations to Charity.

Francois, P., 2007. Making a difference. RAND Journal of Economics 38, 714–732. https://doi.org/10.1111/j.0741-6261.2007.00108.x

Francois, P., 2003. Not-For-Profit Provision Of Public Services*. Economic Journal 113, C53–C61. https://doi.org/10.1111/1468-0297.00110

Francois, P., 2000. "Public service motivation" as an argument for government provision. Journal Of Public Economics 78, 275–299.

Francois, P., Vlassopoulos, M., 2008. Pro-social Motivation and the Delivery of Social Services. CESifo Economic Studies 54, 22–54. https://doi.org/10.1093/cesifo/ifn002

Frumkin, P., Keating, E.K., 2010. The price of doing good: Executive compensation in nonprofit organizations. Policy and Society 29, 269–282. https://doi.org/10.1016/j.polsoc.2010.07.004

Fudenberg, D., Levine, D., 2006. A Dual-Self Model of Impulse Control. American Economic Review 96, 1449–1476. https://doi.org/10.1257/aer.96.5.1449

Gerth, H., Weber, M., Mills, C.W. (Eds.), 1997. From Max Weber: essays in sociology, New ed., repr. ed, Routledge sociology classics. Routledge, London.

Ghatak, M., Mueller, H., 2011. Thanks for nothing? Not-for-profits and motivated agents. Journal of Public Economics 95, 94–105. https://doi.org/10.1016/j.jpubeco.2010.09.003

Glaeser, E.L., Shleifer, A., 2001. Not-for-profit entrepreneurs. Journal of Public Economics 81, 99–115. https://doi.org/10.1016/S0047-2727(00)00130-4

Grabowski, D.C., Hirth, R.A., 2003. Competitive spillovers across non-profit and for-profit nursing homes. Journal of Health Economics 22, 1–22. https://doi.org/10.1016/S0167-6296(02)00093-0

Grabowski, D.C., Hirth, R.A., Intrator, O., Li, Y., Richardson, J., Stevenson, D.G., Zheng, Q., Banaszak-Holl, J., 2016. Low-Quality Nursing Homes Were More Likely Than Other Nursing Homes To Be Bought Or Sold By Chains In 1993–2010. Health Affairs 35, 907–914. https://doi.org/10.1377/hlthaff.2015.1042

Great Britain, Ministry of Justice, 2016. Legal services: removing barriers to competition : consultation on proposals to make amendments to the Legal Services Act 2007.

Great Britain, Ministry of Justice, 2011. Legal aid reform in England and Wales:the Government response. TSO, London.

Great Britain, Ministry of Justice, 2010. Proposals for the reform of legal aid in England and Wales. TSO, Norwich.

Great Britain, Treasury, Stationery Office (Great Britain), 2015. A better deal: boosting competition to bring down bills for families and firms.

Gregg, P., Grout, P.A., Ratcliffe, A., Smith, S., Windmeijer, F., 2011. How important is pro-social behaviour in the delivery of public services? Journal of Public Economics 95, 758–766. https://doi.org/10.1016/j.jpubeco.2011.03.002

Grindley, Peter, 2006. Legal Aid Reforms Proposed by the Carter Report – Analysis and Commentary.

Grossman, S.J., Hart, O.D., 1986. The Costs and Benefits of Ownership: A Theory of Vertical and Lateral Integration 94, 691. https://doi.org/10.1086/261404

Grout, P., Schnedler, W., n.d. Non-Profit Organizations in a Bureaucratic Environment 40.

Grout, P., Yong, M.J., 2003. The Role of Donated Labour and Not for Profit at the Public/Private Interface (The Centre for Market and Public Organisation). Department of Economics, University of Bristol, UK.

Grout, P.A., 2009. Private Delivery of Public Services 28. http://www.bristol.ac.uk/media-library/sites/cmpo/migrated/documents/ppfinal.pdf

Grout, P.A., Jewitt, I., Sonderegger, S., 2007. Governance Reform in Legal Service Markets. The Economic Journal 117, C93–C113.

Gruber, J., 1994. The effect of competitive pressure on charity: Hospital responses to price shopping in California. Journal of Health Economics 13, 183–211. https://doi.org/10.1016/0167-6296(94)90023-X

Hansmann, H., 1996. The ownership of enterprise. The Belknap Press of Harvard University Press, Cambridge, Mass.

Hansmann, H.B., 1980. The Role of Nonprofit Enterprise. The Yale Law Journal 89, 835–901. https://doi.org/10.2307/796089

Hart, O.D., Shleifer, A., Vishny, R.W., 1997. The Proper Scope of Government: Theory and an Application to Prisons.

Heckman, J., Heinrich, C., Smith, J., 1997. Assessing the Performance of Performance Standards in Public Bureaucracies. The American Economic Review 87, 389–395.

Heckman, J.J., Smith, J.A., Taber, C., 1996. What Do Bureaucrats Do? The Effects of Performance Standards and Bureaucratic Preferences on Acceptance into the JTPA Program (Working Paper No. 5535). National Bureau of Economic Research. https://doi.org/10.3386/w5535

Heyman, J., Ariely, D., 2004. Effort for payment. A tale of two markets. Psychological science 15, 787–93.

HM Government, 2012. Public Services (Social Value) Act 2012.

HM Government, 2011. Open public services white paper. Stationery Office Ltd, London. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/255288/OpenPublicServices-WhitePaper.pdf (accessed 9.21.18).

HM Government, n.d. Putting small charities at the heart of public services [WWW Document]. GOV.UK. URL https://www.gov.uk/government/news/putting-small-charities-at-the-heart-of-public-services (accessed 6.18.18).

HM Treasury, 2018. The Green Book: appraisal and evaluation in central government.

Holmstrom, B., Milgrom, P., 1991. Multitask Principal-Agent Analyses: Incentive Contracts, Asset Ownership, and Job Design. Journal of Law, Economics, & Organization 7, 24–52.

House of Commons Constitutional Affairs Committee, 2007. Implementation of the Carter Review of Legal Aid.

Hynes, S., 2012. Austerity justice. Legal Action Group, London.

Iajya, V., Lacetera, N., Macis, M., Slonim, R., 2013. The effects of information, social and financial incentives on voluntary undirected blood donations: Evidence from a field experiment in Argentina. Social Science & Medicine 98, 214–223. https://doi.org/10.1016/j.socscimed.2013.09.012

Jones, D.B., Propper, C., Smith, S., 2017. Wolves in sheep's clothing: Is non-profit status used to signal quality? Journal of Health Economics 55, 108–120. https://doi.org/10.1016/j.jhealeco.2017.06.011

Kane, T.J., Staiger, D.O., 2002. The Promise and Pitfalls of Using Imprecise School Accountability Measures. The Journal of Economic Perspectives 16, 91–114.

Kapur, K., Weisbrod, B.A., 2000. The Roles of Government and Nonprofit Suppliers in Mixed Industries. Public Finance Review 28, 275–308. https://doi.org/10.1177/109114210002800401

Kellner, C., Reinstein, D. and Riener, G., 2018. Ex-ante Commitments to "Give if you Win" Exceed Donations After a Win. University of Exeter Working Paper http://hdl.handle.net/10871/32001 (accessed 9.18.18).

Lakdawalla, D., Philipson, T., 2006. The nonprofit sector and industry performance. Journal of Public Economics 90, 1681–1698. https://doi.org/10.1016/j.jpubeco.2005.11.004

Law Centres Federation, 2017. Doing Justice: LCN Annual Review 2016-17 [WWW Document]. URL http://www.lawcentres.org.uk/policy-and-media/papers-and-publications/annual-reviews (accessed 4.19.18).

Lazear, E.P., 1998. Personnel economics for managers. Wiley, New York.

Lazear, E.P., 1986. Salaries and Piece Rates. The Journal of Business 59, 405–431.

Legal Aid Agency, 2018. Guidance for reporting Controlled Work & Controlled Work Matters: Version 18 [WWW Document]. URL https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/712919/Guidance_for_Reporting_Controlled_Work_Matters_v19_June_2018.pdf (accessed 1.7.18).

Legal Services Commission, 2010. Key Performance Indicators under the 2010 Standard Civil Contract:Guidance document for Social Welfare Law, Low Volume Categories, Mental Health, and Immigration/Asylum Providers.

Legal Services Commission, 2008. Unified Contract Civil Specification.

Legal Services Commission, 2007. Equality and Diversity Policy Guidance 2007.

Legal Services Commission, Department for Constitutional Affairs, 2006. Legal aid reform: the way ahead. Stationery Office, London.

Legal Services Research Centre, 2011. Routine Diversity Monitoring of the Supplier Base, Legal Services Commission. Legal Services Commission, London.

Legal Services Research Centre, 2009. Routine Diversity Monitoring of the Supplier Base, Legal Services Commission. Legal Services Commission, London.

Lindrooth, R.C., Weisbrod, B.A., 2007. Do religious nonprofit and for-profit organizations respond differently to financial incentives? The hospice industry. Journal of Health Economics 26, 342–357. https://doi.org/10.1016/j.jhealeco.2006.09.003

Ling, V., Pugh, S., Legal Action Group, 2011. LAG legal aid handbook 2011/12. Legal Action Group, London.

Liu, W., Aaker, J., & John Deighton served as editor and Gavan Fitzsimons served as associate editor for this article, 2008. The Happiness of Giving: The Time-Ask Effect. *Journal of Consumer Research, 35*(3), 543-557. doi:10.1086/588699

Low Commission, 2014. Tackling the Advice Deficit: A strategy for access to advice and legal support on social welfare law in England and Wales.

Lu, S.F., 2015. The Role of Donations in Quality Disclosure: Evidence from Nonprofit Nursing Homes by Susan F. Lu :: SSRN [WWW Document]. URL https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1956689&download=yes (accessed 6.23.18).

Lu, S.F., 2013. How Do Nonprofits Respond to Quality Disclosure: Evidence from Nonprofit Nursing Homes, University of Rochester, Simon School Working Paper.

MacDonald, G., Marx, L.M., 2001. Adverse Specialization. Journal of Political Economy 109, 864–899. https://doi.org/10.1086/322084

Malani, A., Choi, A.H., 2004. Are Non-Profit Firms Simply For-Profits in Disguise? Evidence from Executive Compensation in the Nursing Home Industry (SSRN Scholarly Paper No. ID 617362). Social Science Research Network, Rochester, NY.

Malnick, E., 2013. Bankers must focus on morals, says Archbishop of Canterbury. The Telegraph. https://www.telegraph.co.uk/news/religion/10403310/Bankers-must-focus-on-morals-says-Archbishop-of-Canterbury.html

Mauss, M., 1967. The Gift: The form and Reason for Exchange in Archaic Societies 225.

Mazzucato, M., 2017. Mission-Oriented Innovation Policy: Challenges and Opportunities 43. UCL Institute for Innovation and Public Purpose Working Paper

Ministry of Justice, 2016. Legal services: removing barriers to competition : consultation on proposals to make amendments to the Legal Services Act 2007.

Ministry of Justice, 2009. Study of Legal Advice at Local Level 102.

Mocan, H.N., Tekin, E., 2003. Nonprofit Sector and Part-Time Work: An Analysis of Employer-Employee Matched Data on Child Care Workers. The Review of Economics and Statistics 85, 38–50. https://doi.org/10.1162/003465303762687695

Moorhead, R., Sherr, A., Paterson, A., 2003. Contesting Professionalism: Legal Aid and Nonlawyers in England and Wales. Law & Society Review 37, 765–808. https://doi.org/10.1046/j.0023-9216.2003.03704003.x

Moorhead, R., Sherr, A., Webley, L., Rogers, S., Sherr, L., Paterson, A., Domberger, S., 2001. Quality and Cost: Final Report on the Contracting of Civil, Non-Family Advice and Assistance Pilot [WWW Document]. Stationery Office, Norwich. (2001). URL http://discovery.ucl.ac.uk/1365435/ (accessed 4.19.18).

NCVO, 2017. UK Civil Society Almanac 2017.

nef consulting, 2009. The Socio-Economic Value of Law Centres.

Norton, E., Staiger, D., 1994. How hospital ownership affects access to care for the uninsured. RAND journal of economics 25, 171–185. https://doi.org/10.2307/2555860

Ortmann, A., Schlesinger, M., 1997. Trust, repute and the role of non-profit enterprise. Voluntas: International Journal of Voluntary and Nonprofit Organizations 8, 97–119.

Paola Donegani, C., McKay, S., Moro, D., 2012. A Dimming of the 'Warm Glow'? Are Non-Profit Workers in the UK Still More Satisfied with their Jobs than Other Workers?, in: Bryson, A. (Ed.), Advances in the Economic Analysis of Participatory & Labor-Managed Firms. Emerald Group Publishing Limited, pp. 313–342. https://doi.org/10.1108/S0885-3339(2012)0000013015

Patel, A., Balmer, N.J., Pleasence, P., 2008. Geography of advice seeking. Geoforum, Placing Splintering Urbanism 39, 2084–2096. https://doi.org/10.1016/j.geoforum.2008.07.004

PLEAS Task Force, 2007. Developing capable citizens: the role of public legal education. PLEAS Task Force, London.

Prentice, G., Burgess, S., Propper, C., 2007. Performance Pay in the Public Sector: A review of the issues and evidence Commissioned by: Office of Manpower Economics Undertaken by: Office of Manpower Economics.

Preston, A.E., 1988. The Effects of Property Rights on Labor Costs of Nonprofit Firms: An Application to the Day Care Industry. The Journal of Industrial Economics 36, 337–350. https://doi.org/10.2307/2098472

Propper, C., Wilson, D., 2003. The Use and Usefulness of Performance Measures in the Public Sector. Oxford Review of Economic Policy 19, 250–267. https://doi.org/10.1093/oxrep/19.2.250

PwC, 2013. Law Centre Newtwork Social Impact Study.

Randall, Joe, 2013. Social Welfare Legal Advice and Early Action. The Baring Foundation, London.

Resource Centre, 2018. Legal structures for community groups and not-for-profit organisations | Resource Centre.

Roomkin, M.J., Weisbrod, B.A., 1999. Managerial Compensation and Incentives in For-Profit and Nonprofit Hospitals. Journal of Law, Economics, & Organization 15, 750–781.

Rose-Ackerman, S., 1996. Altruism, Nonprofits, and Economic Theory. Journal of Economic Literature 34, 701–728.

Seu, I.B., Flanagan, F., Orgad, S., 2015. The Good Samaritan and the Marketer: public perceptions of humanitarian and international development NGOs. International Journal of Nonprofit and Voluntary Sector Marketing 20, 211–225. https://doi.org/10.1002/nvsm.1520

Shleifer, A., 1998. State versus Private Ownership.

Simpson, H., 2009. Productivity in Public Services. Journal of Economic Surveys 23, 250–276. https://doi.org/10.1111/j.1467-6419.2008.00562.x

Sloan, F.A., 2000. Chapter 21 Not-for-profit ownership and hospital behavior, in: Handbook of Health Economics. Elsevier, pp. 1141–1174. https://doi.org/10.1016/S1574-0064(00)80034-7

Sloan, F.A., Steinwald, B., 1980. Effects of Regulation on Hospital Costs and Input Use. The Journal of Law and Economics 23, 81–109. https://doi.org/10.1086/466953

Smith, Marisol, Patel, Ashish, 2010. Using Monitoring Data: Examining Community Legal Advice Centre Delivery.

Smith, Marisol, Patel, Ashish, 2008. Money Advice Outreach Evaluation: Cost and Effectiveness of the Outreach Pilots.

Smith, S., Steed, S., 2012. Commissioning public services – grants versus contracts. Centre for Understanding Behaviour Change: Short Policy Report No. 12/06

Social Enterprise Mark CIC, 2016. Social Enterprise Mark - Eligibility Criteria [WWW Document]. URL https://www.socialenterprisemark.org.uk/wp-content/uploads/2018/06/SEM-Qualification-criteria-June-18.pdf (accessed 6.30.18).

Steed Susan, 2013. Money and giving: Do financial incentives deter or encourage co-operative behaviour? New Economics Foundation, London.

Stein, J.M., 2001. The Future of Social Justice in Britain: A New Mission for the Community Legal Service.

Steinberg, R., 1988. The nonprofit economy, by Burton A. Weisbrod. Cambridge, MA.: Harvard University Press, 1988, 251 pp. Price: $22.95 cloth. Journal of Policy Analysis and Management 8, 679–683. https://doi.org/10.2307/3325057

Steinberg, R., Weisbrod, B.A., 2005. Nonprofits with distributional objectives: price discrimination and corner solutions. Journal of Public Economics 89, 2205–2230. https://doi.org/10.1016/j.jpubeco.2004.08.006

Sutan, A., Grolleau, G., Mateu, G. and Vranceanu, R., 2018. “Facta non verba”: An experiment on pledging and giving. *Journal of Economic Psychology*, *65*, pp.1-15.

Teasdale, D.S., 2009. The contradictory faces of social enterprise: impression management as (social) entrepreneurial behaviour 4.

Thaler, R.H., Benartzi, S., 2004. Save More Tomorrow (TM): Using behavioral economics to increase employee saving. Journal Of Political Economy 112, S164–S187.

Titmuss, R., 1970. The gift relationship: from human blood to social policy / Richard M. Titmuss. Allen & Unwin, London.

Tonin, M., Vlassopoulos, M., 2015. Are public sector workers different? Cross-European evidence from elderly workers and retirees. IZA Journal of Labor Economics 4. https://doi.org/10.1186/s40172-015-0027-3

Treasury, 2015. A better deal: boosting competition to bring down bills for families and firms. Stationery Office (Great Britain).

Trude, A., Gibbs, J., 2010. Review of quality issues in legal advice measuring and costing quality in asylum work executive summary. ICAR, City University, London.

Vlassopoulos, M., 2017. “Putting a Foot in the Door”: Volunteer Hiring and Organizational Form. Manchester School (1463-6786) 85, 133–162. https://doi.org/10.1111/manc.12139

Vlassopoulos, M., 2009. Quality, reputation and the choice of organizational form. Journal of Economic Behavior & Organization 71, 515–527. https://doi.org/10.1016/j.jebo.2009.02.014

Weisbrod, B.A., 2004. Why Private Firms, Governmental Agencies, and Nonprofit Organizations Behave Both Alike and Differently: Application to the Hospital Industry (WP-04-08).

Weisbrod, B.A., 1983. Nonprofit and Proprietary Sector Behavior: Wage Differentials among Lawyers. Journal of Labor Economics 1, 246–263. https://doi.org/10.1086/298012

Wilson, J., 1989. Bureaucracy: what government agencies do and why they do it / James Q. Wilson. Basic Books, New York].